DOCUMENT RESUME

ED 379 174 SO 024 054

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|---|---|
| AUTHOR | Robinson, Barbara |
| TITLE | Massachusetts and the Bill of Rights. A Teacher's Manual with Suggested Activities and Resources for the Bill of Rights Bicentennial and Supplement to the "By What Right" Video. |
| INSTITUTION | Commonwealth Museum, Boston, MA. |
| PUB DATE | 91 |
| NOTE | 49p. |
| AVAILABLE FROM | The Commonwealth Museum, 220 Morrissey Boulevard, Boston, MA 02125. |
| PUB TYPE | Guides - Classroom Use - Teaching Guides (For Teacher) (052) |
| EDRS PRICE | MF01/PC02 Plus Postage. |
| DESCRIPTORS | Audiovisual Aids; *Civil Liberties; *Constitutional History; High Schools; Instructional Materials; Intermediate Grades; Junior High Schools; *Law Related Education; Learning Activities; Middle Schools; *United States History |
| IDENTIFIERS | *Bill of Rights; *Massachusetts |

ABSTRACT

This document, a teacher's manual, was published as part of the state of Massachusetts' observance of the bicentennial of the United States Constitution. The manual accompanies a videotape on the topic. Together, the materials can help educators identify the people, places, and pictures that they can use to underscore the significance of the Bill of Rights. While middle and high school teachers are the primary focus of the manual, it also offers activities and resources for use in elementary instruction. Materials are adaptable for various age levels and are reproducible. The manual includes an introduction, a Bill of Rights timeline, a brief guide to four major issues that the videotape highlights, a set of nine learning activities, and listings of resource materials and organizations. An appendix presents the Bill of Rights and 16 other constitutional amendments. Contains 22 references. (SG)

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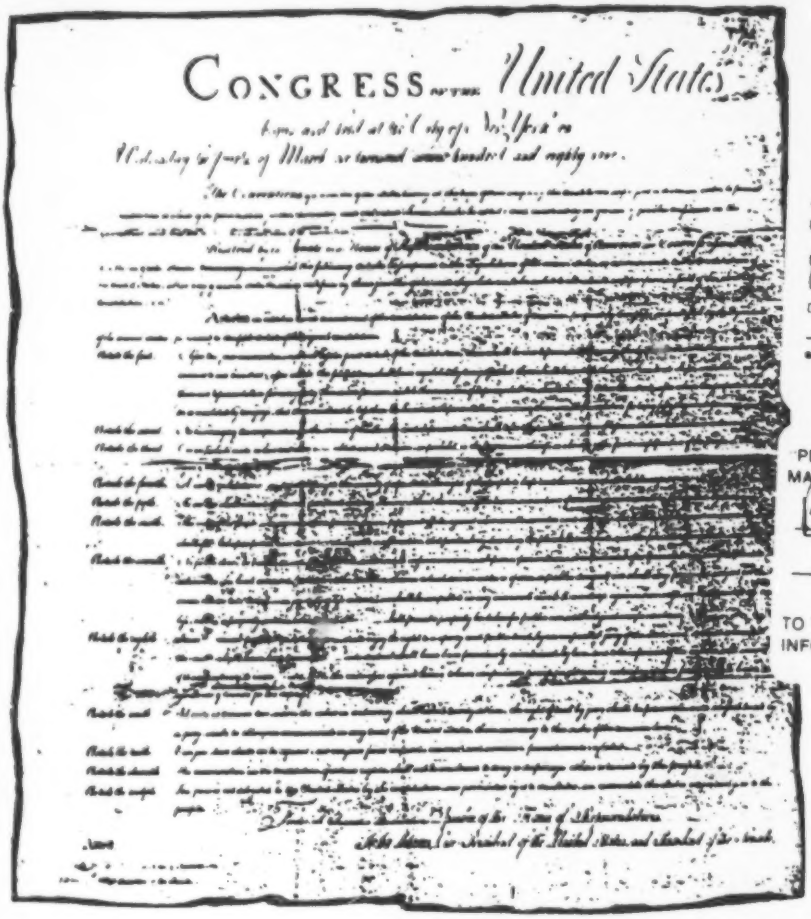
ED 379 174

# MASSACHUSETTS AND THE BILL OF RIGHTS

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***A Teacher's Manual***
*with Suggested Activities and Resources for the Bill of Rights Bicentennial*
*And Supplement to the "By What Right" Video*

**The Commonwealth Museum**
**Office of the Secretary of State**
**Michael J. Connolly, Secretary**

SO 024 054



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**Acknowledgments:**

Thanks to the following individuals and institutions who contributed to this booklet on the Bill of Rights:

Video segments:

Background Information: Steve Cole, Former Curator of Exhibits, Commonwealth Museum

Legal Review: Tim Gassert, Director, Public Records Division, J-C. Martignoni, Legal Intern, Office of the Secretary of State

Case Materials: Nancy Murray, Bill of Rights Project, Massachusetts Civil Liberties Foundation
Nancy Kaufer, Massachusetts Bar Association, LRE
David Schimmel, University of Massachusetts, Department of Education
(Fischer and Schimmel) *A Bicentennial Guide for Lawyers and Teachers*

Activity Suggestions/Permissions:
Marjorie Montgomery, CRADLE
New York State Bar Association, Law, Youth and Citizenship Program
Massachusetts Bar Association, Law-Related Education
Pennsylvania Commission on the Humanities
National Council for the Social Studies

Publishing: Desktop Assistance: Tom Blazej, Publications Division
Reproduction: Coralette Goodwin, Central Services, Office of the Secretary of State

General Thanks to the Commission on the Bicentennial of the US Constitution for calendar and resource information, graphics and overall support.

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The Commonwealth Museum
Office of the Secretary of State
Michael J. Connolly, Secretary

By His Excellency

WILLIAM F. WELD

Governor

# A PROCLAMATION

1991

**WHEREAS:** The constitution of the Commonwealth of Massachusetts was adopted in 1780, and with its 89 amendments, it is still in use today; and

**WHEREAS:** Massachusetts is the only state that still uses its original document with its most significant provision, a Declaration of Rights, a forerunner of the Bill of Rights in the United States Constitution; and

**WHEREAS:** When the United States Constitution was signed on September 17, 1787, it contained no bill of rights; and

**WHEREAS:** On February 6, 1788, Massachusetts became the sixth state to ratify the Constitution, but only after the delegates proposed nine amendments guaranteeing personal liberties and reserving to the individual states all powers not "expressly delegated" by the Constitution to the Federal government; and

**WHEREAS:** After considerable debate, our First Federal Congress on September 25, 1789, submitted to the states for ratification, amendments to the Constitution; and

**WHEREAS:** On December 15, 1791, the eleventh state to ratify ten of twelve proposed amendments made these ten "Bill of Rights" part of our Constitution; and

**WHEREAS:** During the 200th anniversary of the ratification of the Bill of Rights, our nation focuses on the Bill of Rights and on other constitutional provisions which secure rights, including the original Constitution and those subsequent amendments extending human rights; and

**WHEREAS:** 1991 has been called "THE BILL OF RIGHTS AND BEYOND: A CALL TO ACTION" and provides a unique bicentennial opportunity for all residents in our Commonwealth of Massachusetts to reaffirm the principles for which the Constitution and this country stand, to learn more about our precious system of government, to remember the origins of our freedom, and to pay tribute to the document that has produced a way of life envied the world over;

NOW, THEREFORE, I, WILLIAM F. WELD, Governor of the Commonwealth of Massachusetts, do hereby proclaim the year of 1991 as

THE BILL OF RIGHTS AND BEYOND YEAR

and urge the citizens of the Commonwealth to take cognizance of this event and participate fittingly in its observance.

Given at the Executive Chamber in Boston, this tenth day of April, one thousand nine hundred and ninety-one, and of the Independence of the United States of America, the two hundred and sixteenth.

By His Excellency the Governor

William F. Weld

WILLIAM F. WELD

Michael J. Connolly

MICHAEL J. CONNOLLY
Secretary of the Commonwealth

GOD SAVE THE COMMONWEALTH OF MASSACHUSETTS

# INTRODUCTION:
# The Bill of Rights and Beyond

**A Five-Year Celebration to commemorate the United States Constitution!**

- **1987** the anniversary of its writing and signing;
- **1988** the anniversary of its ratification;
- **1989** focus on the Legislative and Executive Branches;
- **1990** focus on the Judicial Branch; and
- **1991** the Bill of Rights and Beyond.

**The Commission on the Bicentennial of the United States Constitution** launched a five-year program to encourage a thoughtful, sustained study that would lead to greater participation and education than a single year might accomplish.

The national celebration got off to an eventful and auspicious start, with cooperation from state and local governments and private groups and educators - especially the teachers. Many excellent education programs were initiated and materials generated. Some of these programs and materials are now part of ongoing curricula and new curriculum materials continue to be published.

But five years is a long-time to maintain a coordinated effort, and people tend to have short memories. In spite of a very active national Commission, Constitution Bicentennial attention and participation waned by 1990. Several of the state bicentennial commissions, including Massachusetts', went out of existence. Many teachers have persevered, however, and have continued to inspire their students to learn more about the Constitution and citizenship.

Now, during 1991, the final year's celebration on "The Bill of Rights and Beyond" has begun. It brings a message that is for all Americans.

The Commission's message emphasizes three basic points throughout this celebration which should continue beyond the year 1991.

- The rights secured by the Constitution as it is today are precious and call forth our best efforts to preserve them.
- A concern for preserving our own rights cannot be separated from a respect for the rights of others.
- In order to preserve our rights and to respect those of others, we must understand what those rights are.

**In Massachusetts** there are signs that momentum is gaining and the lessons of "liberty" are being brought home to the public. The Massachusetts Bicentennial Commission has been reactivated by executive order and a new chairman has been appointed. A Proclamation has been issued by the Governor and the Secretary of State. (see preceding page.) A six-state New England conference has been held under the sponsorship of the US Commission and the Stoneham Bicentennial Committee.

**The Commonwealth Museum** under the Office of the Secretary of State has had a continuing program on the Constitution Bicentenial and is now offering a museum exhibit and a video for classroom use, and this teacher's manual on the Bill of Rights.

**The exhibit** consists of original archival materials and interpretation of the state's role in the development of a bill of rights A twelve-poster series prepared by the Pennsylvania Humanities is also featured. The exhibit is self-guiding, but prepared tours and special programs are available upon request for educational groups.

**The video** provides a segment on four controversial rights questions that students can debate in the classroom. The teacher's manual includes background information on these four hypothethical examples, providing references to related cases.

**This teacher's manual** serves as a supplement to the video and helps educators identify people, places and materials that can be used throughout 1991 and beyond to celebrate the "Bill of Rights and Beyond." It is aimed at middle and senior high school teachers, but some elementary level activities and resources are included. Materials can be adapted for appropriate grade level and can be reproduced.

# BILL OF RIGHTS TIMELINE
## with Reference to Massachusetts

October 1774 (1774-1775) The First Continental Congress approves a "Declaration of Rights," stating that all men are entitled to life, liberty, and property, which cannot be deprived without their consent. Particular rights are mentioned: freedom of press, religion, trial by jury, assembly and petition, citizen participation in legislative councils; freedom from a standing army in time of peace without consent.

May 1775 Massachusetts requests advice on reestablishment of civil government.

June 1775 Second Continental Congress advises Massachusetts to elect town representatives to govern with Council.

July 1775 General Court is reestablished and other forms of civil government follow.

December 1775 Pittsfield Memorial calls for action on setting up formal government with a constitution and bill of rights.

May 1776 The Second Continental Congress recommends that each colony form their own state government. Virginia convention calls for declaration of independence and a declaration of rights.

June 1776 The Virginia Declaration of Rights, written principally by George Mason, is passed at the General Convention of Virginia, which expanded the concept of citizen liberties.

July 1776 The Second Continental Congress adopts the Declaration of Independence.

September 1776 General Court asks towns to empower legislature and council to frame a new constitution. Towns reject.

November 1777 The Articles of Confederation are enacted by the Continental Congress, to be voted on by the states.

June 1778 Massachusetts towns reject constitution proposed by constitutional convention formed within General Court. Objections include lack of a Bill of Rights.

September 1779 Massachusetts Constitutional Convention convenes in Cambridge with delegates from the towns meeting through March. A draft written mainly by John Adams is accepted and sent to towns for a vote.

Writing the MA Constitution: John Adams center, with James Bowdoin, Sam Adams; State House mural by Albert Herter.

June 16, 1780 Massachusetts adopts a constitution which includes a Declaration of Rights. Governor Bowdoin signs proclamation.

March 1781 All states have ratified the Articles of Confederation.

1787 Congress passes the Ordinance of 1787, part of the Northwest Ordinance, which includes guarantees of personal freedoms and prohibition of slavery in the territory.

May 25, 1787 The Constitutional Convention begins in Philadelphia.

July 13, 1787 Northwestern Ordinance bans slavery in the new Northwest Territory.

September 1787 George Mason of Virginia objects to the Constitution because there is no Declaration of Rights. Elbridge Gerry of Massachusetts also outlines his objections based on the lack of rights protection and the fear of too much national authority at the expense of the states.

September 17, 1787 The Constitution is signed without a Bill of Rights. Mason, Gerry and Edmund Randolph of Virginia refuse to sign because of the omission. The Constitution is sent to the states for ratification.

December 29, 1787 Thomas Jefferson writes to John Adams from France where he is U.S. Minister, to urge consideration of a bill of rights.

Jan-Feb. 1788 The Massachusetts Ratification Convention meets in Boston with 351 delegates elected by the towns. After intense debate and a compromise resolution proposing a bill of rights after ratification (first state to propose amendments), the Constitution passed by a close vote 187-168.

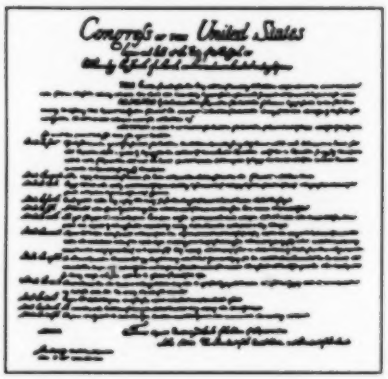
1788-1789 Other state ratifying conventions endorsing a bill of rights addition included New Hampshire, Virginia, New York, Maryland, South Carolina.

February 4, 1789 George Washington is chosen the first president of the United States, John Adams the first vice president.

June 8, 1789 Eight amendments including 17 changes to the Constitution are introduced in the House of Representatives by James Madison Although Madison was originally opposed to adding amendments, he agrees they are necessary and works to organize the 200

received from the states into concise form.

September 25, 1789 The First Congress approves twelve amendments to the Constitution which are transmitted to the states by George Washington. The first two concerning apportionment in the House of Representatives and salaries of Congressmen are rejected. Articles III -XII are ratified and become known as the Bill of Rights.



November 20, 1789 New Jersey is first state to ratify the Bill of Rights.

November 21, 1789 North Carolina ratifies the Constitution because of Congressional intent to add rights

December 19, 1789 Maryland ratifies the Bill of Rights.

December 22, 1789 North Carolina ratifies the Bill of Rights.

January 18, 1790 South Carolina ratifies the Bill of Rights.

January 25, 1790 New Hampshire ratifies the Bill of Rights.

January 28, 1790 Delaware ratifies the Bill of Rights.

February 24, 1790 New York ratifies the Bill of Rights.

March 10, 1790 Pennsylvania ratifies the Bill of Rights.

June 7, 1790 Rhode Island ratifies the Bill of Rights.

September -November, 1791 Vermont becomes the 14th state under the Constitution; ratifies the Bill of Rights.

December 15, 1791 Virginia is eleventh state to ratify, providing necessary number for adoption as part of the U.S. Constitution.

February 7, 1795 The Eleventh Amendment is ratified.

November 17, 1800 Congress convenes in new capital of District of Columbia for first time.

August 1814 U.S. at war with Great Britain, and important government documents, including the Bill of Rights, removed to Virginia. They were returned to Washington after the British left Washington several weeks later.

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December 6, 1865 The Thirteenth Amendment is approved, abolishing slavery.

July 9, 1868 The Fourteenth Amendment is passed, guaranteeing freed slaves citizenship, suffrage and due process.

February 3, 1870 The Fifteenth Amendment, granting former slaves the right to vote, is ratified.

August 18, 1920 Women guaranteed right to vote by the Nineteenth Amendment ratification.

March 2, 1939 Massachusetts ratifies on the 150th anniversity of Bill of Rights submission to the states; Georgia (March 18) and Connecticut (April 19) follow, the other original states who did not adopt.

March 29, 1961 The Twenty-third Amendment giving DC citizens right to vote for electors for President and Vice President is ratified.

January 23, 1964 The Twenty-fourth amendment, removing economic restrictions on voting, is ratified.

July 1, 1971 The Twenty-sixth Amendment giving 18-year olds the right to vote, is ratified.

*Information for this chronology was taken from calendars of the Commission on the Bicentennial of the United States Constitution, the Pennsylvania Humanities Council, and materials prepared on the Massachusetts State Constitution and the ratification of the U.S. Constitution.*

# *By what right... The Constitution and Civil Liberties*
## VIDEO: Origin and Content

**During the celebration of the Bicentennial of the US Constitution** in 1987, the focus was on the Constitution's origins in Philadelphia and the ratification process. The Commonwealth Museum participated through a poster series and collaborative program on the Massachusetts ratification of the Constitution that extended over several years. (See Resource Organization listing for products) In 1987-88 it also displayed an exhibit entitled, "By What Right?...The Constitution and Civil Liberties" which featured a video and billboards of clippings on current civil liberties issues.

The controversial rights questions considered in the video remain the subject of constant, and often angry, debate. Because 1991 is a special year for considering these rights, it seems appropriate to make the video available to schools. This booklet contains background information on the selected civil rights issues to encourage classroom preparation for and discussion of the video. Ideas for year-long rights education studies are also suggested.

**Four Bill of Rights issues** are presented:
- protection from unreasonable searches (school locker search);
- freedom of speech (censorship);
- protection against cruel and unusual punishment (the death penalty).
- freedom of religion (prayer in classroom).

In each video segment, an actor or actress reviews the current legal status of the issue, including recent Supreme Court rulings or state court interpretation. Sam Adams in puppet form provides historical background. Adams speaks across two centuries to suggest the aims of the Constitution's authors and to make clear that the Constitution and Bill of Rights were written in a very different social context. Many of the issues on which current civil liberties controversies are based were unknown at the time the Constitution was composed.

At the end of each rights segment, the video can be stopped and students can vote. As part of citizenship education, students can learn about important problems and take a stand on them. The teacher's role is vital in challenging students to think critically, and in extending the research and discussion on each segment. Other civil liberties issues which are current and important to students in their everyday lives or as future voters can also be considered.

As the culminating theme of the Bicentennial, the Bill of Rights points up the need for continual study and safeguarding of constitutional rights. Born in dissent, these rights will continue to cause dissent as new amendments are debated and new issues bring reinterpretations of legal rulings. The need for an informed citizenry is vital in this interpretation process.

## ISSUE # 1: Protection Against Unreasonable Searches (Fourth Amendment)

**Summary:** This video segment portrays a female student who has had her locker searched by the principal, without a warrant. She protests his assumption of reasonable suspicion because of her association with another student who uses drugs.

**Background:** The Fourth Amendment to the U.S. Constitution provides the people with the right to be free from unreasonable searches by government officials. This personal right generally requires government officials to obtain a warrant prior to a search for evidence of violations of prohibited conduct. The Amendment further requires that no warrant be issued without a determination by an independent magistrate that "probable cause" exists.

An **independent magistrate** is a judge or clerk magistrate or, in some cases, a justice of the peace. The independent magistrate cannot be an agent of a law enforcement agency or in any way have a vested interest in the issuance of a warrant or in resolution of the dispute he is hearing.

**"Probable cause"** exists if the independent magistrate is convinced that it is more likely than not that a search of a specified area will produce evidence of a violation of prohibited conduct. The independent magistrate bases his determination on witness accounts and the physical evidence presented to him. Any "anonymous tips" must be corroborated by known and credible witnesses or informants.

**Supreme Court rulings:** The Supreme Court recognizes certain circumstances in which searches without warrants are "reasonable" for purposes of the Fourth Amendment. In most circumstances, the type of "probable cause" required for a warrant must be present. There are, however, some situations in which a search may take place without "probable cause." The Supreme Court has ruled that the setting of a public school presents circumstances which may justify a search by school officials which is not conducted pursuant to a warrant and which is not based on "probable cause." (See TLO case on next page)

The Court recognizes that while the Fourth Amendment applies to school officials, there is a need to maintain discipline in order to ensure an environment which is conducive to learning. Consequently, the Court has ruled that the special needs of the school environment require assessment of the legality of such searches against a standard less exacting that that of "probable cause." Rather, searches conducted by school officials need only be based on "reasonable suspicion."

**"Reasonable suspicion"** exists if there are facts which suggest that a specific individual is in possession of evidence of misconduct or contraband which might endanger that student or other students. The scope of a search based on "reasonable suspicion" must also be tailored to the circumstances which justify the search at its inception in order to satisfy the reasonableness requirement of the Fourth Amendment.

**Lower court rulings:** While the Supreme Court has only ruled on related cases of school searches without warrant, lower courts have dealt specifically with school locker searches. There is a split among these jurisdictions on this issue. Those courts which have upheld warrantless school locker searches have reasoned that the locker is the property of the school and that the student cannot have a reasonable expectation of privacy in school property. This argument is supported by the need of school officials to maintain discipline. The courts which have found school locker

searches to be unconstitutional have reasoned that because school officials exercise great authority over conduct and lifestyeles of students, the students need a private sanctuary which is found in their locker.

Some courts have made a distinction between looking inside a locker (school property) and searching a student's clothing inside a locker (which could be considered private property).

A previously announced school policy of random locker searches eliminates any reasonable expectation of privacy in a locker. However, warrantless random searches still must be conducted according to a prescribed procedure and "reasonable suspicion" is still required to single out a particular student's locker for searching.

**QUESTIONS**

- Is the principal's assumption of Rosa's guilt based on her friendship with Leslie reasonable?
- Should the school's desire to maintain discipline and provide a safe environment for students be more important than a student's right to protection from searches conducted without a warrant?
- Should school officials be able to investigate lockers because the schools own them? Or should the lockers be considered the private property of the student during the school year?

**Related cases:** The case of *New Jersey v. TLO*, 469 U.S. 325 (1985) is the first Supreme Court case to consider the school search issue. It involved the warrantless search of a student's purse when she was found smoking in the girl's bathroom. Along with cigarettes, drug paraphernalia was found and turned over to law enforcement authorities.

In this ruling school officials can search a student without "probable cause" if there is a "reasonable suspicion" that the search will turn up evidence of violating either the law or the rules of the school, and if the search is not more intrusive than necessary to determine evidence of wrongdoing. This standard is not as strict as that of police action in the community, requiring "probable cause" and a warrant issued by an independent magistrate.

At state levels there is no consensus about locker search, but generally the special role of school officials to protect health and safety of children has been upheld (*in loco parentis*). In cases where the search has been invasive beyond the requirement to determine wrongdoing, courts have supported privacy rights.

**Other types of search cases:** Massachusetts has a strict drunk driving law and conducts random checks at roadblocks without a warrant. The Supreme Court has upheld random checks when they are part of a reasonable, well-publicized program.

Recent Court rulings in drug enforcement cases have permitted police to use evidence from a search without warrant, if the search was conducted in good faith.

The practice of giving public school students blood tests for drugs has been generally upheld in lower courts. In one Michigan case however, a 15-year old cheerleader successfully challenged the school's proposed drug testing of all athletes and cheerleaders.



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## ISSUE # 2: Freedom of Speech and Expression (First Amendment)

**Summary**: This segment shows a father in front of a storefront holding printed materials he deems obscene. He claims the store should not be able to distribute them under the First Amendment's freedom of speech provisions.

**Background**: The First Amendment to the Constitution includes protection of the basic freedom of speech and expression.

**Supreme Court Rulings**: The terms "obscenity" and "pornography" are commonly used interchangeably to describe the same types of materials. The Supreme Court, however, has announced a specific legal definition of "obscenity." Pornographic materials are "legally obscene" if: 1) the materials depict or describe, in a patently offensive way, sexual conduct specifically defined by the applicable law; 2) the dominant theme of the work, taken as a whole, is to appeal to the prurient interest; and 3) the materials, taken as a whole, lack a serious literary, scientific, artistic or political value. If pornographic materials meet **all three** of these criteria, then they constitute "legal obscenity." If a work constitutes "legal obscenity" the First Amendment protection of freedom of speech and expression is not applicable.

**Community Action**: The first step toward eliminating "legally obscene" material is the enactment of a law which defines the type of materials which the community believes to be obscene. This step can be accomplished in one of two ways.

1) A governing body such as a state legislature or city council may pass a law or ordinance.

2) Citizens may directly petition their governing body for the enactment of a law.

Once a law is passed, the next step is to allege a violation of the law.

**Defendant Action**: The defendant will have an opportunity to argue that: the law, as written, does not apply to this situation; or the dominant theme of the work is not to appeal to the prurient interest; or the work, taken as a whole, has a serious literary, scientific, artistic or politial value. If the defendant can prove to the satisfaction of the judge or jury that any one of his arguments has merit, then the First Amendment protects the distribution of the work.

**QUESTIONS:**

- Is the right of the individual to read or view pornography more important than the right of the public (in this instance, the daughter of the bookstore owner and other children) to be protected from coming in contact with pornography?
- Should a city or town be able to decide on its own whether certain books, magazines, films or videos are legally obscene or should they be forced to abide by the Supreme Court's standards on obscenity?
- Do you agree with the three-part definition of "legal obscenity" by the Supreme Court?
- How do you think government should promote decency and moral behavior among individuals and communities?
- Should there be different standards for children than adults? How can children be protected?
- Should a public advertizing campaign about AIDS be allowed in which explicit sexual information, including the use of condoms, is provided?

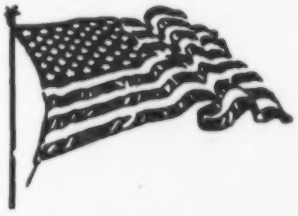
**Related cases:** The Mapplethorpe photography exhibit brought the issue of pornography to the front page when a federal court in Cincinnati, OH ruled the art was not obscene and the Institute of Contemporary Art had the right to show the exhibit. At the same time in Congress the National Endowment for the Arts was under fire for funding this and related art that displayed nudity and sexuality. New strings were being considered on grant applications to ensure "public decency standards." Furor resulted, artists refused to sign, and NEA removed most of this grant-strings wording.

When the Mapplethorpe exhibit came to the Institute of Contemporary Art in Boston, there was no actual court case, and the show was seen by sellout crowds without incident. It did elicit much response about the whole question of nudity and art, and who has the right to determine when art is obscene. In another Boston exhibit, the Photographic Resource Center examined the issues of censorship and sexuality, and a criminal complaint was sought against them by anti-pornography groups. No compaint was issued by the court.

Complaints of obscenity are not just for works of literature and art. A street performer at the Esplanade was accused by the MDC of disorderly conduct because his costume was deemed obscene and offensive to the public. In a recent Florida case, rock lyrics considered "obscene" were removed from stores.

**Other Types of Free Expression Cases:** Courts are continually considering other issues of free expression, such as symbolic expression, free speech protests, freedom of information, and press cases. One recent case of student censorship was *Hazelwood School District v. Kuhlmeir*, 484 US 260 (1988) which sent shock waves through the student community when the Supreme Court ruled that the principal had the right to delete two stories from the school newspaper, which was published through a journalism class within the curriculum. The Court reasoned that schools have greater control over school-sponsored publications, as long as it is reasonable. For a student freedom of speech case study, see *Bethel School v. Fraser*, p. 26.

**Symbolic protests:** The Court held in *Texas v. Johnson*, 491 US 391(1989) that burning the American flag is a form of free speech protected by the Constitution, a decision which did not distinguish between behavior and expression.



An important related case, *Tinker v. Des Moines School District*, 393 US 503 (1969) extended this protection to students.by upholding students' rights to wear black armbands to show disappoval of the Vietnam War. Is this opinion changing on today's Court?

**Free speech protests:** Was there less harrassment of minority opinion during the Gulf War because of our Vietnam experience in which the country was bitterly divided? When should protesters, hecklers be removed and the right to speak unpopular opinions be protected? (KuKluxKlan or Nazi Party rallies, e.g. See *Skokie case*, 373 N.E. 2d, 21 (1978).

**Freedom of Information, press:** When can the government deny requests for information or place controls on press, advertising? Recently a MA person was denied right under the Freedom of Information Act to review her FBI files, and this denial is now being challenged. US content-based control over public issue advertising must be justified by a compelling government interest according to Supreme Court rulings.

## ISSUE #3: Protection Against Cruel and Unusual Punishment (Eighth Amendment)

**Summary:** In this segment, the issue is the death penalty. A prisoner on death row argues that the sentence constitutes "cruel and unusual punishment" by the state.

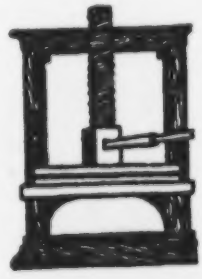
**Background:** The Eighth Amendment provides for a right to be free from cruel and unusual punishment by the government. The death penalty, however, was very common at the time the Eighth Amendment was adopted. Consequently, the Supreme Court consistently holds that the Eighth Amendment does not prohibit the imposition of the death penalty for some crimes.

The system of federalism established by the Constitution allows the states to define and prescribe penalties for criminal conduct which takes place within their borders. Although the federal government may impose the death penalty for certain federal crimes such as high treason, most executions are conducted by state governments. Because the Supreme Court has ruled that the Eighth Amendment does not prohibit a state from imposing the death penalty, states are free to decide for themselves whether or not to have a death penalty and when it is appropriate to use it. There are, however, some limits on this authority.

**States and the Death Penalty:** A state may only execute an individual if the legislature has passed laws which specifically provide for the death penalty. The manner of execution cannot be "cruel and unusual." Examples of "Cruel and unusual" executions include crucifixion, torture and burning at the stake. In addition, the courts of the state can decide whether the specific laws in question, or whether the death penalty in general, are inconsistent with the relevant state constitutional provisions.

**Massachusetts and the Death Penalty:** The history of the Massachusetts death penalty serves as an excellent illustration of how the courts, the legislature and citizens can participate in the resolution of the issue.

In *O'Neal v. Commonwealth*, the Supreme Judicial Court (SJC) concluded in 1975 that the Massachusetts Constitution prohibits the imposition of the death penalty for the crime of murder committed in the course of rape. The court recognized the right to life as fundamental. Any taking of a fundamental right by the government is subject to the strictest scrutiny. Strict scrutiny requires the state to demonstrate that the deprivation of this right is justified by a compelling state interest and that the state is using the least restrictive means available. Essentially, the state interest served by a death penalty is deterrence to others. The court found, however, that the death penalty served as no greater a deterrent than life imprisonment.



**The Legislature responded** to this decision with a new death penalty statute in 1979. In 1980 the SJC decided that in all circumstances, the death penalty violates the Massachusetts Constitution's prohibition against cruel and unusual punishment. The court noted that the death penalty was being applied in a discriminatory and arbitrary fashion. The mental anguish suffered by a death row inmate also was considered. Therefore, the court concluded that, in light of contemporary standards, the imposition of the death penalty constituted cruel and unusual punishment.

**The people of the Commonwealth** responded to this decision. In 1982, the voters approved a constitutional amendment which provides that no provision of the Massachusetts Constitution "shall be construed as prohibiting the imposition of the punishment of death." The Legislature responded with another death penalty statute.

In 1984, despite the 1982 amendment, the SJC found the new death penalty statute to be unconstitutional. Although the 1982 amendment prohibited the court from holding that the death penalty is per se unconstitutional, the court still found a constitutional problem. The new statute provided that the death penalty could only be imposed after a jury convicted a person of a capital offense. The court reasoned that the result of such a statute would be to induce people to plead guilty to charges to avoid being found guilty by a jury and possibly being subject to the death penalty. As a result, the fear of the death penalty would deprive people of their right to a jury trial and their right against self-incrimination.

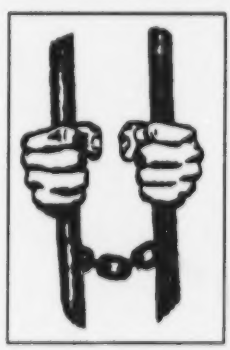
**QUESTIONS:**

- Do you agree with Jimmy that if it is wrong for an individual to kill, it is just as wrong for the state to kill?
- Is Jimmy's argument that a murderer might still be capable of contributing to society a valid reason for abolishing the death penalty? What about the argument that some people are put to death for crimes they did not commit?
- Should the Supreme Court be interpreting the Constitution based on the ideas and principles current at the time of its writing? Or should changes in society and values through time influence the Constitution's interpretation? At the time the Eighth Amendment was proposed and adopted, the death penalty was common and not regarded as cruel and unusual punishment.
- What evidence is there that the death penalty acts as a deterrent?
- How does the number of US deaths by homicide and capital punishment compare with other countries of the world?
- What death penalty statute do you think would pass the scrutiny of the Supreme Judicial Court of Massachusetts?

**Related cases:** The Supreme Court is showing greater emphasis on victim's rights as opposed to accused or prisoner's rights. The Bush Administration feels the death penalty acts as a deterrent and has included it for certain drug-related crimes in its "anti-crime" package which the Congress is now considering. The President is threatening a veto if sections pass but not the death penalty portion.

The new trend of the Supreme Court is toward denying stays in executions. Executions have taken place in states that allow them in increased numbers.

Due to the tremendous number of convictions on drug charges, prisons throughout the United States are at the bursting point. Riots at prison institutions have arisen where the issue has been overcrowding and harsh treatment. The courts are upholding greater police action against protesting prisoners generally. The overcrowding of prisons may violate a person's Eighth Amendment rights.



## ISSUE #4: Freedom of Religion (First Amendment)

**Summary:** A public school teacher sits at her desk and tells why she thinks she should be allowed to lead the children in religious prayer. She does not mind if it is only silent prayer.

**Background:** The issue of prayer in public schools is currently the subject of much debate. The First Amendment prohibits government from promoting religion to avoid favoring of one religion over another. The special role public schools play in nurturing the minds of the young requires particular scrutiny of the conduct of school officials as it relates to matters of religious beliefs.

Some recent cases have focussed debate on laws which provide for "a moment of silence,"or "time of meditation," or "private prayer." Generally, courts uphold laws which provide for "moments of silence" or "time for meditation" so long as such times are conducted in such a way that no student is forced to participate or is stigmatized if he/she does not. Laws which provide for private prayer as an alternative to "moments of silence" are not per se unconstitutional so long as the intent of the statute is not to promote religious beliefs. See the Supreme Court case study below.

**Supreme Court Rulings:** The Supreme Court has held that any law which permits or requires a public school official to play a role in the development of a student's religious beliefs is unconstitutional.

A recent Supreme Court decision serves to illustrate the need to determine intent of the terminology related to "moment of silence" laws for the public schools. A state statute provided that public school teachers could set aside a moment at the beginning of the day for "meditation or voluntary prayer."

The Supreme Court held that this law was unconstitutional. One of the justices who concurred in the decision of the Court clearly stated that it was not the use of the word "prayer" alone which rendered the statute unconstitutional. Apparently, the version of the law which was challenged had recently been amended to include the provision for "voluntary prayer."

The legislative history of the Amendment clearly indicated that the only reason for the amendment was to promote religious beliefs. Consequently, the Court thought the public schools had engaged in the promotion of religion. Such an action violates the Establishment Clause of the First Amendment. This Clause prohibits the government from taking actions which promote religious beliefs.

**QUESTIONS:**

- Do you feel, as the teacher does, that there is a relationship between the decline in importance of religion in schools and society and a decline in values among Americans?
- Do you think that religious guidance is the responsibility of the schools or of the church and the family?
- Should a community be able to determine the appropriateness of school prayer? How could this increase the risk of persecution of minority religious opinion?
- What rights should those have who want to pray in school? Shouldn't they have equal rights with those who don't?
- How can schools teach about religion without teaching religion itself?
- Do you think church and state should be separate?

**Related Cases:** In a recent Rhode Island case challenging school prayer at a graduation (*Lee v. Weisman*) the First Circuit Court of Appeals, which also has jurisdiction over Massachusetts, ruled prayers at graduation unconstitutional in July 1990. An appeal by the Providence School Board to the Supreme Court will be heard this fall. (See cases in Fischer &Schimmel 1991)

The Supreme Court reversed Federal Judge W. Brevard Hand's decision to allow prayer in Alabama public schools. *Wallace v. Jaffree*, 472 US 38 (1986).

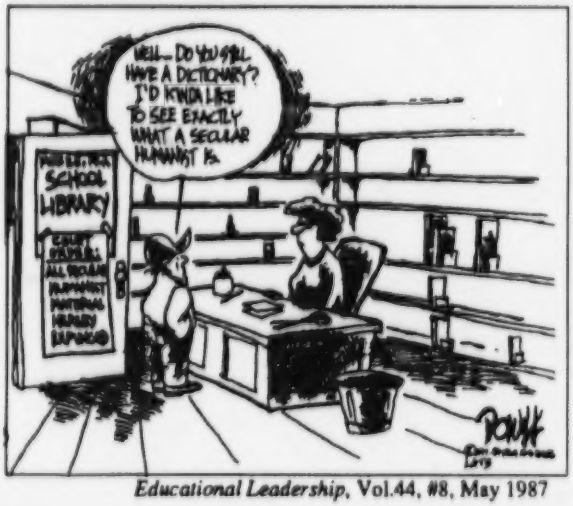
**Changing Views Toward Separation of Church and State and the Schools:** The teaching about religion is not prohibited in the public schools as opposed to teaching religion which is restricted by the "Establishment Clause." Generally some ceremonies and symbols related to religious holidays and celebrations have been permitted, when it is more tradition than religion stressed. But rulings related to the public schools have tended to be stricter than those for the general public in the past. There are indications that this is changing. Public monies now support private institutions, including religious, in increasing ways, but there are inconsistencies involving this aspect of the First Amendment. Students can look for changes and inconsistencies in recent Supreme Court rulings and for lower court cases that could be appealed to the Court (see the "creche" case on the next page).

There are a growing number of school-related cases in which public facilities are used for church activities and vice versa. The Supreme Court ruled in a New York City case that the use of Title I funds for public teachers to teach remedial reading in private religious schools was unconstitutional. *Aguilar v. Fenton*, 473 US 402 (1985) While direct support has not been encouraged, indirect support to parents for such items as textbooks, transportation, etc. is now generally supported in the courts.

**Parental Choice:** This is a popular topic in the legislatures and the courts today. The parental choice question is sometimes related only to public school choice, but there are at present several bills in the Congress relating to support for schools of choice, regardless whether public or private, including religious.

The "accommodationist" view on the establishment of religion clause in the Constitution argues that public support for religious schools through vouchers, tax credits, and "parental choice" on selection of schools does not violate separation of church and state. Both Presidents Reagan and Bush, as well as Chief Justice Rehnquist, have argued on behalf of the view that if there is no favoritism to one church, it doesn't violate the Constitution.

**What is Secular Humanism?** In the US District Court, Greeneville TN, the judge ruled in favor of parents claiming that the secular textbooks offended their Christian beliefs and allowed them to teach children reading at home. *Mozert et al v. Hawkins County Public Schools et al*, 647 F.Supp.1194 (1986) In Mobile, AL, fundamentalist parents charged Mobile schools with promoting the "religion of secular humanism." Judge Brevard Hand ruled in their favor and ordered 45 books removed from schools. *Smith et al v. Board of School Commissioners of Mobile County*, (1987)




*Educational Leadership*, Vol.44, #8, May 1987



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**Case Study: Nativity Scenes and the Constitution:** The constitutionality of Christmas nativity scenes has stirred a great deal of debate in recent years. The Supreme Court heard a case in which the city of Pawtucket, Rhode Island erects a creche every Christmas season. The erection of the creche was challenged as a violation of the Establishment Clause of the First Amendment. The Court ruled in 1984 (*Lynch v. Donnelly*) that the erection of the Pawtucket creche was constitutional.

The creche in Pawtucket was part of a large display celebrating the Christmas season. The display also included other symbols, such as a Santa Claus, which were clearly not of a religious nature. The Court reasoned that, in this context, the inclusion of the creche did not impermissibly advance religion. The creche, the Court found, merely served as a symbol of the origin of the national holiday.

There is no simple formula to use to determine whether the erection of a creche as part of a Christmas display is unconstitutional. In fact, the Pawtucket case was decided by a vote of five justices to four. The Court did, however, identify the factors to consider when ruling on this issue.

The content of the objectionable symbol is critical. The creche must have a secular purpose to survive constitutional scrutiny. A court will also consider the tradition of the display, the amount of tax dollars required to erect or maintain the display, whether a particular church is sponsoring or promoting the display, and the social divisiveness created by the display.

For example, the erection of a creche, which is provided by a particular religious organization and stands alone on government property in a town in which a portion of the population finds the display objectionable, is clearly unconstitutional. However, a Christmas display which requires little or no financial support from the town, and which has long included a creche as a recognition of the origin of a national holiday and does not create social divisiveness is unlikely to be found unconstitutional.

**QUESTIONS**

- Which holiday symbols do you consider religious and which secular?
- When do you think government should be prohibited from displaying religious symbols?
- Are religious symbols displayed on public property or on public occasions in your community? Are they challenged? By what groups?

***Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof....***

***Amendment I***

# ACTIVITIES — Introduction

**The Bill of Rights and Beyond**:The First Ten Amendments are called the Bill of Rights, and the next 16 amendments are the "Beyond" in the Bicentennial title. Later amendments deal with extensions of the "blessings of liberty," -- equal rights and due process under the law, especially for women and minorities.

Four of the most controversial Bill of Rights issues shown in the video have been discussed already, but issues related to equality, fairness and due process are not dealt with specifically in the video. Some activities are included in the next section to introduce these issues. Due process is a common phrase in court action today, but it is a term hard to define. It relates to both the Fifth and Fourteenth Amendments (which made the process applicable to the states) but also comes into play in other cases involving fairness and equality of justice.

The Fourteenth Amendment extended the equal protection under the law to state action, but cases of unequal treatment by private parties are subject to federal laws, often under civil rights acts. Many of the current laws related to civil rights and discrimination are controversial. A new Civil Rights Act is now being discussed in Congress, with much ado over whether it includes "quotas" or affirmative action sections which President Bush had vetoed in the past.

The Thirteenth, Fourteenth and Fifteenth Amendments are known as the Civil War Amendments designed to end slavery, eliminate discrimination based on color, and extend voting rights. The Nineteenth Amendment gave women the right to vote. The Twenty-Fourth eliminated the poll tax. The proposed Twenty-Seventh spelled out equal rights for women, but failed just short of state ratifications needed for enactment within seven years.

**Tips for Teachers:** The struggle for an end to color and sex discrimination is still being played out in the courts, the legislatures and the streets. Students can pay attention to discrimination cases in the news today and look for court decisions on them. Some recent examples include: two female police officers contesting unfair treatment; sports teams where there is no girls team, where the right of girls to be on boys team is challenged; protests of gay bashing by skinheads and other hate crimes; treatment of refugees and refugee rights; war crimes reparations to Japanese interned in prisoner of war camps.

Students can study recent Supreme Court decisions, to analyze consistency and revision in interpretations of rights. When decisions of the Supreme Court change direction, other institutions like the Congress often change as well, in a system of checks and balances.

Students can investigate how justices of the Supreme Court are nominated and confirmed . Hearings on the Bork and Souter nominations to replace Justice William Brennan show how dissent was mobilized in fear of the balance changing from a progressive to conservative court. A new justice will soon replace Thurgood Marshall, the first Black justice. Students can study the nominee's views on discrimination, fairness and other controversial issues to project changes in court opinions.

Younger students can start with basic law-related questions that they understand personally before applying principles of rights to larger issues. Older students can be challenged to analyze past rights decisions and present trends through critical thinking questions, case studies, research and writing projects. The following activities are examples of the extensive curricula available to aid teachers.

# ACTIVITIES
# 1."Making Wrongs Right"

by Dale Greenawald
Courtesy Youth Education for Citizenship, American Bar Association
*Update on Law-Related Education*

This activity is designed to help primary students to analyze situations where a wrong has occurred and offer recommendations for corrective justice.

## Objectives

To apply the concept of corrective justice and develop critical thinking and problem solving skills. To emphasize that courts are to help those who were wronged, not just punish people.

## Procedures

The teaching time is approximately 30 minutes for grades K-3 and approximately 45 minutes for grades 4-6. This lesson is a natural for a community resource person from the justice community (e.g., a lawyer or judge).

Explain that after a case is decided and a person is found guilty a court has several functions. It wants to protect society so that the person can't hurt anyone else. It also wants to help the guilty person improve himself/herself. It also wants to punish the guilty person so that he/she won't break the law again. Finally, the court wants to help the person who was hurt.

Read each case. Ask students to explain what happened. Ask what might be done by those involved to correct the situation. Why do they think that their solution is a good one? The resource person will critique responses.

### K-3 READINGS

1. Mike wrote on the bathroom walls. When he admitted that he had been the person responsible, the principal asked him how he might make things right.

   Ask the class for suggestions about what would be fair. What might Mike do and why should he do that? Why is this a good suggestion and how will it help? Critique answers in a positive manner—"what about?" "did you think of...?"
2. Sarah was shopping with a friend and she took and ate some candy without paying for it. When she tried to leave the store the manager asked why she hadn't paid for the candy she ate. Sarah did not have any money to pay for the candy. She doesn't have any money anywhere. What can Sarah do to make this wrong right?
   A. Have the class brainstorm solutions and how they might make things better. What would be fair?
   B. What can the manager do if he wishes to stop this kind of behavior?
3. Three children are playing with matches at the picnic grounds, Blue Bell Shelter. A strong wind comes up and a spark sets the grass on fire. The shelter and many acres of land are burned, and several animals kept in a small zoo nearby are killed or injured. Before trying to make this wrong right, think about:
   - Some animals are gone forever.
   - The children are too small to rebuild the shelter.
   - The community cannot use the picnic grounds.
   - It cost a lot of money to put out the fire.
   - It costs a lot of money to rebuild the shelter.

   A. How can this wrong be made right? What would be fair?
   B. What can the children do even though they cannot make things the way they were?

### FOR USE WITH GRADES 4-6

Several students at Westmeadow Elementary School see a television ad for the Whiz-Bang Mighty Automobile toys. It looks like a really neat set of toys. In the ad it looks like the toys are several feet long and have motors. The set costs $45.00. Each of the children work very hard cutting grass, doing chores and helping neighbors for several months to earn money. They stop going to movies and buying candy so that they can save all of their money for the Whiz-Bang Mighty Automobile toys. When the toys arrive, they are about six inches long, made of plastic, and powered by a rubber band. All of the toys are broken within a few days of use. They simply fell apart. It is clear that the advertisement was misleading.

### CLASS DISCUSSION

1. What is fair?
2. What are the legal rights of the children?
3. How can this wrong be righted?
4. If you were a judge and this case came to your court, how would you right the wrong?

The resource person should explain the rights of the children in this case and what would probably happen if they complained to the county consumer affairs office. Also, if the students took their case to small claims court what might happen?

The lawyer or judge should tell about different programs and ways the courts can right wrongs. For example:

1. work release programs
2. community service sentences
3. paying back the cost of the damages (restitution)
4. repairing what can be fixed

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# 2. "Evidence and the Witchcraft Trials"

From *Living Together Under the Law,* An Elementary Education Law Guide
Arlene F. Gallagher, Author and Editor
Courtesy New York State Bar Association

**THEME SIX: Rules and laws are used to judge behavior and settle disputes.**

## IV CURRICULUM CORRELATION

### EVIDENCE AND THE WITCHCRAFT TRIALS

**Purpose:** To evaluate the significance of evidence in a trial and how it was different during the witchcraft trials.

**Background for the Teacher:**
The phenomena of witchcraft trials in this country is a fascinating one for study. Although far fewer witches were actually persecuted in this country compared to the numbers in Europe, this is still a very black page of our history. The trials are especially useful to study because the rules of procedure and evidence were so different. Evidence was permitted that would never be allowed in today's courts.

**The Touch Test**
If a victim of witchcraft was touched by an alleged witch and became calm after the touch, this proved the accused was guilty as charged. Supposedly the touch drew the "devil" from the victim and only a true witch had this power.

**Spectral Evidence**
The devil could take various forms and harm people. Only one witness was necessary to prove this.

**No Right to Counsel or Appeal**
An accused person did not have the right to an attorney, nor the right to an appeal. Decisions of the court were final.

**The Devil's Mark**
A wart or other unusual mark was considered a sign of the devil and was used as evidence to prove a person was a witch. Today, evidence is a very important part of a trial and there are very strict rules regarding what evidence will be admitted in court.

The following kinds of evidence are inadmissible:

Biased Views

Witnesses cannot say things like, "George is a no-good bum."
Hearsay

Witnesses cannot say things like, "Fred said that Danny was at the gas station just before the robbery."

**Illegally Obtained Evidence**
If the police search your home without a search warrant, the evidence they find cannot be used in court. There are some exceptions to this but generally your home is considered to be your castle.

**Irrelevant Statements**
Statements that have nothing to do with the trial are not permitted. If the defendant is on trial for theft, the witness cannot make statements about her as an unfit mother.

**Public Opinion and Rumors**
"Everyone knows that Jim shot his brother."

**Follow Up:**
- Have students write statements that might be considered as evidence. Then decide whether or not these would be admissible.
- Discuss the differences between the evidence admitted in the witchcraft trials and evidence admitted today.
- Visit a court and ask the judge to discuss rules of evidence with the class.



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# 3. "Classroom Visitor: The Postal Service"

From *Living Together Under the Law, Elementary Education Law Guide*
Arlene F. Gallagher, Author and Editor
Courtesy New York State Bar Association

**THEME NINE: Rules and laws protect an individual's rights, privacy and property.**

## II MOTIVATING ACTIVITY

**The United States Mail**

Our mail is protected by the United States Government. Tampering with the mail is considered to be a very srious offense and it is a federal crime. Have students examine the visual (photograph book) and discuss the seriousness of taking mail from mailboxes.

**Fieldtrip or Classroom Visitor: The Postal Service**

Arrange to bring your class to a post office or invite a postal worker to your classroom. Before the trip or visit, read Postal Workers A to Z by Jean Johnson (New York: Walker and Company, 1987) which offers basic background in photographs and text.

## OUR BILL OF RIGHTS

**Purpose:** To familiarize students with the source of their individual rights.

**Background for the Teacher:**

Our government is a constitutional government which means that it is a government based upon a written document. An important aspect of that document is that it can be changed, or amended. The first ten amendments of the United States Constitution are called the Bill of Rights which contains some of the most important rights for American citizens.

**Procedure:** Review the Bill of Rights with your students. The Amendments are reproduced in the back of this booklet for older students, but you may want to provide the essence of each for younger students.

## APPLYING THE BILL OF RIGHTS

**Purpose:** To have students analyze situations which may or may not involve individual rights and determine the source of those rights.

**Procedure:** Read each of the situations out loud to your class and ask them to determine whether or not an individual right has been violated and which Amendment applies to the situation.

**Case 1:** — Mr. and Mrs. Danzinger live in a four-story apartment building. They fight all of the time and the neighbors can hear them yelling and throwing things at each other. One Saturday morning the building superintendent finds Mr. Danzinger in the hallway. He is dead. It is obvious that he has been shot several times. The neighbors are positive that his wife did it, although no one saw her. Mrs. Danzinger is accused of murder and put in prison for the rest of her life (Amendment 6)

**Case 2:** Eleanor and Helen live on a street where everyone owns at least one dog. The dogs run loose, dig up gardens, and turn over trash cans. Eleanor and Helen decide to hold a meeting to discuss the need for a leash law. One of their neighbors calls the police and tells them to break up the neighborhood meeting because no one else is interested ina leash law and those two women are trouble makers. Do Eleanor and Helen have a right tohave their meeting? (Amendment 1)

**Case 3:** Ten years ago Phil was convicted of breaking and entering into a radio and television store. On a Saturday night he is sitting quietly at home in his apartment watching his favorite TV program. A police kofficer knocks at the door and says he is going to search the apartment for stolen property. When Phil asks to see a search warrant, the officer says he doesn't need one. (Amendment 4)

# 4. "EXERCISE YOUR CONSTITUTION: Constitutional Olympics for the Classroom"

by *Tarry Lindquist*, Lakeridge Elementary School, Mercer Island, Washington
From the Center for Research and Development in Law-Related Education (CRADLE)

**LESSON OVERVIEW:**

This lesson is designed to culminate study of the Bill of Rights. Students will gain insight into the U.S. Bill of Rights as well as knowledge about the human rights sections in constitutions of other nations. Simulating the Olympics, students will "win" knowledge which will help them appreciate the diversity of constitutions around the world. They will become aware that the value and application of such documents varies greatly.

Appreciation for the U.S. Bill of Rights will be fostered as students draft a parallel Bill of Responsibilities that citizens should practice in order to safeguard the Constitution. Unique to the unit is the incorporation of traditional cultural games in which students compete to "win" knowledge. Structured to be played in the classroom, this unit combines kinesthetic activities with cooperation among team members.

While Pacific Rim countries are featured in this unit, United States, Canada, Mexico, Philippines, China and the Soviet Union, teachers could insert any country that would integrate their curricula more effectively.

**GOALS:**

Working cooperatively, students will:

- read and analyze the human rights sections of six different constitutions;
- make inferences about the similarities and differences;
- develop insight and appreciation regarding the diverse value, application and practice of constitutions in different countries;
- create a Bill of Responsibilities to parallel the Bill of Rights.

**MATERIALS AND OUTSIDE RESOURCES:**

1. *World Book* encyclopedia or other encyclopedia for these topics: Olympics, Canada, China, United States of America, Mexico, Philippines, Soviet Union
2. One copy of each of the constitutions (included with this lesson)
3. Six envelopes
4. See GAMES directions for specific materials

**BACKGROUND FOR THE TEACHER:**

Although most constitutions sound ideal on paper, there is wide diversity in how they are valued, applied and practiced in different societies. China, for example, has adopted four constitutions since 1949. Before 1949, China had laws, but no single document which guaranteed fundamental rights. The Chinese constitution does not play a significant role in the Chinese Communist governmental system. Instead, the Chinese constitution tends to be a statement of policy reflecting what the leadership is currently thinking about certain issues.

It is important to recognize that in many countries a constitutionally provided judicial system is not the primary method for punishing crimes or resolving conflict. China, for instance, does not have an independent judicial system such as that created in the United States. The Chinese impose punishment and resolve conflicts through mediation strategies, peer pressure, and collective responsibility for individual behavior. Judicial proceedings are conducted by peers or political officials rather than lawyers and judges.

**TIPS FOR TEACHERS:**

This lesson involves team effort in the study of constitutions around the world. It could be accomplished in one full day, but many teachers prefer five fifty-minute lessons. The CRADLE materials provide12 more pages on procedures, game sheets and copies of world constitutions; they are worth sending for. As a culminating activity in the study of the US Constitution,this activity promotes teamwork, constitutional literacy and appreciation of different cultures.

# 5. "The United States Constitution is Only as Good as 'We the People' Make it"

by *Barbara Firestone*, McCollom Elementary School, Wichita, Kansas
From the Center for Research and Development in Law-Related Education (CRADLE)

## INTRODUCTION

The United States Constitution represents the ideas of 55 delegates who attended the Constitutional Convention in Philadelphia in 1787. The Constitution is an unprecedented document because of its flexibility, which has helped it last 200 years. The focus of this lesson is on the flexibility of the United States Constitution. Today, as in the past, compromise is an important part of the democratic process. Throughout American history, there have been events and circumstances which were not envisioned in 1787. Thomas Jefferson, speaking on the Virginia Constitution, said that every generation should examine a constitution to see whether revisions might be necessary. In this respect, the United States Constitution is in a continual state of self-renewal. It is the obligation of "we the people" as part of our heritage and legacy to accept the responsibility to improve the Constitution.

## AUDIENCE

This lesson is for elementary children, grades four through six. It may be adapted for grades seven through twelve, including gifted classrooms.

## TIME TO COMPLETE

Three to five days

## GOALS

As a result of this lesson, students will:

- be able to identify ways in which flexibility might be utilized to accomplish a common goal
- discuss how flexibility and compromise were necessary in the writing of the United States Constitution
- explain how the cases of *Plessy v. Ferguson* and *Brown v. Topeka Board of Education* demonstrate the Constitution's flexibility.

## MATERIALS

Straws
Straight pins
Scissors
Copies of the cases: *Plessy v. Ferguson* and *Brown v. Topeka Board of Education* (See Handouts 1 and 2 for summaries)
Focus questions

## PROCEDURES

1. Explain to students that they will be involved in an activity about the United States Constitution that will help them understand more about how this document works.
2. Tell the students they will be divided into groups of three to five students and that they will be given materials for the purpose of building a structure. Explain that each group should plan and construct a structure which can stand by itself.
3. Allow one class period for students to work on their structures.
4. Tell the students that these group structures represent the ideas of the members of each group. Discuss the strengths and weaknesses of the group structures.
5. Select one member of each group and ask them to cooperate to join all of the structures into one, which can measure no larger than three feet by two feet. Discuss the strengths and weaknesses of the new structures. Suggest to the students how their structure is like the steel framework upon which the electrical work, plumbing and walls of a building hang together.
6. Give the students an opportunity to make changes in the group structure. Explain to the children that there is a similarity between their structure and the U.S. Constitution. The United States Constitution is made up of many ideas of the 55 delegates who attended the Constitutional Convention in 1787.

7. Introduce and discuss the words: flexibility, stalemate, compromise, amendment, constitutional, ratification and unprecedented. Distribute copies of the Constitution to groups and have students examine the framework. The Preamble outlines the purposes of the government; Article I provides for a law-making body; Article II provides for a president and the powers of the office; Article III establishes the judicial branch of government; Article IV covers state powers and the limits on those powers; Article V describes the method for amending the Constitution; Article VI makes the constitution the supreme law of the land; and Article VII explains the ratification method of the Constitution. Within this framework the laws are written, our government interacts with other nations, court cases are settled and the rights of citizens are protected.
8. Stress that the framework of the Constitution makes it flexible because the framers left the details so that future generations could re-write laws and change judicial decisions. To alter the structure, there is the amending process. Students may want to examine the types of structural changes that have been made through this process. Many of these changes deal with the rights of citizens. (Examine Thirteenth, Nineteenth, Twenty-second, and Twenty-sixth amendments.)
9. Another way that the Constitution is made flexible is through the Supreme Court which has power to review laws written by the Congress and to review the actions of the President. Have students examine the two court cases, *Plessy v. Ferguson and Brown v. Topeka Board of Education*. Discuss with students how this process makes the Constitution flexible.
10. Questions to discuss with the students:
    1. Describe the strengths and weaknesses of individual group structures.
    2. What advantages came from using the ideas of everyone in the group? Were there disadvantages? If so, explain what these were.
    3. When all of the structures were made into one large group structure, why was it important to include every group's contribution?
    4. What are the strengths and weaknesses of the large group structure?
    5. Did every group participate equally? Did every group get what they wanted? Why or why not?
    6. What process is involved in making a large group structure?
    7. What responsibilities did individual groups have toward the success of the total group structure?
    8. Explain the advantages of flexibility and compromise.
    9. How do you think the suggestions of the delegates to the convention of 1787 became the Constitution?
    10. Why was the United States Constitution incomplete and why has it been necessary to amend it?

**EVALUATION**

1. Discussion

   Have the students list ways they use compromise and flexibility to accomplish a common goal in a classroom. (Examples: playing games, during recess, helping the teacher with classroom duties, homework, and field-trips.)

   Ask the students to suggest times when there has been a stalemate and compromise has been necessary. What purpose did the compromise serve? Ask the students to suggest ways they think the writers of the United States Constitution had to compromise.
2. Observation
3. Have students use "I learned . . ." statements.

**TIPS FROM THE TEACHER**

Select groups ahead of time and have the materials ready. (50-60 straws per group, a package of pins for each group, and scissors). Stress that the structure should stand alone. Discourage students from building identifiable structures such as bridges

Fourth-grade teachers might need to explain briefly the concepts of government and the United States Constitution as younger students may be unfamiliar with these concepts

Read the book, *S.O.R. LOSERS*, and lead students in a discussion. Encourage them to point out things in the story that may be unconstitutional.

Have the students read *Huckleberry Finn* and ask them to keep a journal of things they feel people may object to in this book and a list of positive things found in the book. When *Huckleberry Finn* has been read, ask students to share their lists and to read the book, *The Day They Came to Arrest the Book*. Have a mock trial on the book, *Huckleberry Finn*.

# 6. " A Visitor from Outer Space"

For grades 5-12, adapted from Rick Miller, *Citizenship Law-Related Education Program for the Schools of Maryland*
Lawyer in the Classroom Program, *Curriculum Materials*
*courtesy Massachusetts Bar Association*

You are quietly watching television with your family when a special news bulletin comes over the TV station. You immediately see that this is not the normal type of news bulletin because there is what looks like a very strange creature on the screen — the only thing that is familiar is that he is speaking in English. He tells you that he and his people have gained control over all of the communications networks in the United States and that everyone had better pay attention to what he has to say. You change the channel, and just as he said, there he is on every station. He begins to speak very loudly and you gather your family around because you are beginning to worry about what he is going to do. His speech is as follows:

"My name is STHGIR and I am from the plant NOITUTITSNOC in another galaxy where the inhabitants are far superior to the beings on this planet EARTH. Just as we have gained control over the communications of the United States, we have the ability to take complete control over every one of your lives. We do not want a war between our planet and yours, but we do want to control some things so that we can live in peace and harmony with you. We have looked at some of your laws and the way your government operates and have found it gives too much freedom to the individual. Therefore, we are going to conduct a survey to try and arrive at a decision with which both you and I are happy. As I have said, I do not want to take everything away from you — but I can't allow you to continue to live as you have in the past. Therefore I am giving you a list of ten of the rights which you now have according to your Constitution. You are to look over the list and decide which of the ten are most important to you. I will allow you to keep FIVE of the ten rights — the five which get the most votes from all the citizens of the United States. You are to rank the following rights in the order in which you would give them up, 1 being the one you would give up last, and 10 being the one you would give up first. After you have completed your ranking, you will receive further instructions."

_____ **Right to bear arms**
_____ **Right to freedom of speech**
_____ **Right to legal counsel**
_____ **Right to protection from cruel and unusual punishment**
_____ **Right to freedom of the press**
_____ **Right to a jury trial**
_____ **Right to freedom of religion**
_____ **Right to peacefully assemble**
_____ **Right to privacy**
_____ **Right to protection from self-incrimination**

**Teacher-Lawyer in Classroom Guide:**

- Set up a tally sheet and tally the responses students ranked 1,2, and 3.
- Discuss responses. If no one picks up what STHGIR and NOITUTITSNOC spell backwards, point out.
- Discuss why it is important to protect everone's rights.
- Go over key cases (for older students) that protected these rights.
- Give students a copy of the class results so they can discuss them with others.

# 7. Freedom of Speech Activity

(For Middle and Senior High School grades)
From Lawyer in the Classroom Program, *Curriculum Materials*
courtesy, *Massachusetts Bar Association*

**CASE II** Based on *Bethel School District No. 403 v. Fraser*, 106 S. Ct. 3159 (1986)

In April, Matt Fraser delivered a speech nominating a fellow student for president of Student Council. There were approximately 600 students in the audience, many of them 14 years old. Students were required to either attend the assembly or go to the study hall.

During the entire speech, Matt referred to his candidate in terms of an elaborate, graphic and explicit metaphor. Pior to the speech, two teachers had informed Matt that the speech was inappropriate, and he should probably not deliver it.

Student response was mixed. Some were embarrassed, some hooted and yelled, while others used gestures to simulate the sexual activity alluded to in Matt's speech.

The Bethel High School Student Code, which was drafted by the Board of Education, provides that:

*Conduct which materially and substantially interferes with the educational process is prohibited, including the use of obscene, profane language or gestures.*

The morning after the assembly, Matt was called into the principal's office and notified that he had violated the code; he admitted his conduct. He was then suspended for three days and his name was removed from the list of candidates for graduation speaker. He appealed the suspension through the school's grievance procedure, but the school hearing officer upheld the suspension. Matt sued the school district, alleging volation of his First Amendment right of free speech. He also claimed that his right to procedural due process was violated because he was not informed in advance of the consequences of his actions.

QUESTIONS

1. Are constitutional rights unlimited? Do we have a right to say whatever we want, whenever and wherever we want? What kinds of limits, if any, would you set for the exercise of such rights?

2. Did students in the audience who were embarrassed have the right to not be exposed to the offensive speech? How should their rights, if any, be protected?

3. Is the Bethel policy reasonable and fair? Are there any changes you would make in the policy?

4. Was Matt's hearing and punishment fair, i.e., is there any merit to his procedural due process claim? Should the precise consequence of every infraction of the Student Code be stated in the code? Is that possible or reasonable?

ANSWERS

1. No. The history of interpretation of First Amendment rights clearly shows that certain regulation is acceptable. As one famous jurist noted, the right of free speech does not give one the right to yeall "fire" in a crowded room. State and local governments can impose reasonable restrictions on the time and place of parades or rallies, for example. The teacher or resource person may wish to discuss with students how one draws the delicate line between reasonable restriction and deprivation of the fundamental rights.

2. This is another balancing task. The issue supports the legitimacy of the school rule. Students should be aware that constitutional law often involves preserving the rights of the minority, as well as balancing individual liberties against the power of the state.

3. There is no right or wrong answer here. The Court found no constitutional violation in the policy.

4. The Court found no due process violation, in part because the punishment was not severe. Matt actually only served two days of his three day suspension.

**CASE II** was based upon Bethel School District No. 403 v. Fraser. The Court found that the objectives of public education include the "inculcation of fundamental values necessary to the maintenance of a democratic political system" These fundamental values must take into account the sensibilities of others, including fellow students. The freedom to advocate unpopular or controversial views is to be balanced against the society's interest in teaching students the boundaries of socially acceptable behavior. The Court also noted that the same latitude of free speech allowed for adults need not be permitted in public school. Thus, the Court concluded that the First Amendment does not prevent school officials from "determining that to permit a vulgar and lewd speech...would undermine the school's basic educational mission," and that the Constitution does not compel "teachers, parents and elected school officials to surrender control of the American public school system to public school students."

**Current Debate**:
Civil libertarians see this decision as a significant narrowing of lst Amendment rights for students when the Court held that the prohibition of "vulgar and offensive terms in public discourse" is "a highly appropriate function of public school education." They fear the word "offensive" could be construed in very broad terms.

**Related Cases**:
Free Speech Case I in this curriculum guide deals with the wearing of items of political or social significance in a school. It is based on *Tinker v. Des Moines School District* (1969), in which the Supreme Court ruled in favor of the students who wore black armbands to protest the Vietnam War. The majority opinion held that the armbands were divorced from disruptive conduct and were akin to free speech protected by the 1st Amendment.

For further information on the applicability of due process to student suspensions, see *Goss v. Lopez*, 419 U.S. 565 (1975), which establishes guidelines for due process in suspending students.

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# 8. Activity on Second and Third Amendments

Adapted from *To Preserve These Rights*, a poster series and curriculum guide by the Pennsylvania Humanities Council. See Resource Organizations for listing.

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**A Citizen Army/The Sanctity of the Home**

**Background:** In an essay, Richard B. Bernstein provides information on how the framers of the Constitution and Bill of Rights sought to protect against threats similar to those experienced in American Revolution when British forces fought against the colonial militias, and when British troops quartered their soldiers in colonists' homes. Colony militias were considered "citizen armies" to be ready at a moment's notice but not a professional army.

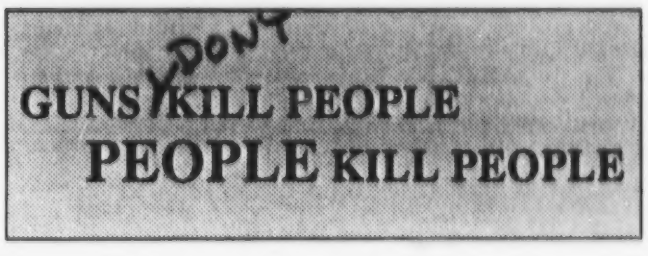
The second Amendment is the subject of continuing dispute as to the intent of the framers and the impact of changing circumstances, with a professional army and local police replacing the "citizen armies." Does the amendment refer to the collective right of the people of each state to preserve their state militia (now National Guard), or does it protect an individual right held by each citizen to possess and use firearms?

Public policy arguments center around changing conditions, especially in cities where firearms are used increasingly in murder and drug abuse crimes. Many individuals feel the easy availability of guns makes these crimes more prevalent; others feel widespread crime makes guns more necessary for protection.

**Teaching Activity 1**
Have the students write a short essay answering this question: How did the colonists' experience with the British government influence the writing of the Second and Third Amendments? Copy entire Bernstein article for class reading or suggest other sources for additional research.

**Teaching Activity 2**
Have students go to the library and look up the entry "gun control" in a current Readers' Guide. Have them choose two articles under this entry to read. They should complete the following outline for each article and present a summary of the articles to the class in an oral report.

I. Title, author, magazine or journal, date
II. Main points of article
    A, B, C, etc.
III. Important statistics found in article
IV. Do you agree/disagree with the author? Has your opinion changed after reading article?
V. What is the author's background? Does it affect the way he/she presents information?



**Activity 3**
Use poster 5 to point out the figure of a soldier or use a magazine picture. Discuss whether this soldier could just as well have been a woman, armed and in uniform. Next, distribute a worksheet on *A Soldier Named Sue* based on the information and questions provided on this page. Force students to take a stand either for or against the resolution. If too many students are on one side, choose a few to argue the other. Allow sufficient class time for students to prepare arguments for debate. Invite another class to watch the debate and join the follow-up discussion. Establish debate ground rules and make sure all participants know them.

**RESOLVED The current sex-based rules on military assignments are outdated, and women should be given the opportunity to perform any job in the American armed forces.**

- Arguments and supporting information I will use to persuade others to share my opinion.
- Arguments the opposing side might use.
- Points I will make to counter their arguments.

**Background Information:**
Army regulations prohibit the assignment of female soldiers to units such as the infantry, armor, and artillery. Federal law imposes similar restrictions on women in the Navy and Air Force. In 1989 women with the American forces in Panama did shoot enemy soldiers. They fought bravely and well. The actions reopened the debate about women's role in the armed forces.

*[In the 1991 Gulf War, women were seen on cable TV at the front lines, and the first woman casualty made front page news. A debate has been going on in Congress over proposed regulations for women: areas of combat duty and reasons for disqualifications (branches of service and family considerations). Recently General Norman Schwartzkopf gave his opinion that he favors extending regulations to include women flying planes but not ground conflict.]*

**Evaluating the Debate** (Possible suggestions)
1. Which presenter made the clearest arguments?

2. Which arguments were most convincing? Tell why.

4. Which side won? Explain

**Follow-up Questions**
1. Are your views different now than at the beginning of the debate? Explain your views.

2. How do you think most people in your parent's age group feel about women serving in combat? Why?

3. What side do you think most people will take twenty-five years from now?

# 9. "Searching for Equality"

from *Constitutional Update: Equality*, by James Giese and Barbara Miller
Courtesy Youth Education for Citizenship, American Bar Association

The evolution of equality is an important theme in U.S. history. This lesson provides an historical context for looking at current legal questions pertaining to equal rights. It is intended for the secondary grades, but if adapted by shortening the research, it would also be appropriate for middle school youngsters.

At the time the U.S. Constitution and the Bill of Rights were developed, equal rights was a limited concept that pertained primarily to white Christian males over the age of 21 who owned property. The story of the expansion of rights is contained in textbooks for U.S. history courses, but it is usually presented in segments rather than thematically. This lesson asks students to extract the story of the gains and setbacks of the civil rights movement from their textbooks and other resources and consider the search for equality as an historical theme that involves questions of morality and justice as well as law.

The historical perspective developed through this activity will illustrate the definition of equality (all humans have an equal right to status as citizens) in the following significant ways: (1) the definition of equality has been enlarged to address economic as well as political issues. Education, employment, health and housing have become the subject of "equal opportunity" in the 20th century; (2) numerous groups excluded from constitutional protections have, through hard work over long periods of time, gained rights and privileges that others have taken for granted.

Following a discussion of equal rights in the U.S. and a textbook search to gather information about the movement toward equal rights and opportunities, the students are asked to serve as an "editorial board" and select the 10 turning points that they feel were most critical in expanding constitutional protections and defining equality in American law and society.

## Procedures

**1. INTRODUCING THE LESSON: PRODUCING A MAGAZINE ABOUT EQUALITY**

Tell students that they are to assume the roles of editors for a special edition of a national news magazine. They will develop and design a publication entitled *The Promise of Equality* featuring 10 significant events or turning points in the movement toward equal rights in U.S. history. Their task will be to present these events in a way that shows the range of issues, people, goals, and strategies that have broadened the meaning of equal rights. Explain that constitutional principles have been the source of rights for disadvantaged Americans throughout our history. By utilizing and respecting the document, disenfranchised Americans have made significant strides toward equality.

**2. DESIGNING THE PUBLICATION**

Provide the students with an overview of the project. The class must decide on both the format and the content of the project. They may want each page of the magazine to be poster size so that it can be displayed in the school or they may wish to produce a reference book for the library or produce booklets that can be reproduced for each student.

Discuss what will be included in each feature story. Encourage students to include a title or headline, at least two or three paragraphs describing the event and illustrations. Special editions of news magazines (e.g., *Life's* 1976 "The 100 Event that Shaped America") provide a concrete model for the project.

**3. PREPARING FOR RESEARCH**

Ask students to list some of the groups who were excluded from the protections of the Constitution at various points in our history. Depending on what has been studied in class, the students should be able to list specific religious groups, racial minorities, women, criminals, poor people and immigrants.

**4. IDENTIFYING THE ISSUES OF INEQUALITY**

Ask students if they can describe some of the specific issues of inequality that each of these groups experienced. You may wish to provide some examples to get the class started. For example, you may wish to point out that although blacks were freed by the Emancipation Proclamation and granted rights and privileges through the Thirteenth, Fourteenth and Fifteenth Amendments, they did not immediately enjoy the same protections as whites.

**5. WHAT IS A TURNING POINT: DEVELOPING CRITERIA**

Discuss the meaning of the term "turning point" as a significant change. Explain that these significant changes involved the use of multiple strategies both before and after a particular important event. Illustrate how constitutional amendments (Twenty-sixth Amendment), legislation (Civil Rights Act of 1964), and court decisions (*Gideon v. Wainwright*, 1963) have been primary strategies for effecting a broader definition of equality. Ask students to think of other strategies that have been used (i.e., boycotts, marches, civil disobedience).

Ask students what criteria they will use in selecting turning points to be featured? Two that can be provided as a start include:

1. Does this event result in more rights for more people?
2. Does this event result in a broader definition of equality?

**6. RESEARCHING THE TURNING POINTS**

Distribute the handout "Historical Turning Points for Equality." (If you wish, you may shorten the list before giving it to the students.) Tell students that this list of turning points has been suggested by readers of the magazine. The list is representative but not inclusive. They can add other events if they wish.

Ask students to use their textbooks and other resources to research the events that have been nominated. Student groups can be assigned a particular disenfranchised group, a strategy for achieving equality, or a particular time period.

Show students how they can use a chart to research the topic.

*Time:* 1955

*Barriers/Problems:* separate facilities not equal/sit in back



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*Goal*: equal access to facilities
*Strategies*: boycotts/law suits
*Outcome*: Supreme Court ruling

**7. ANALYSIS OF THE DATA**

Once the research has been completed and organized, the class should analyze the data and discuss which events seem to be significant turning points.

Teacher questions to focus the discussion can include:

1. Do all the items nominated meet the criteria for enlarging the definition of equality? If not, which ones should be eliminated?
2. Which events seem to have made the most significant differences in the lives of Americans? How would our society be different if the events had not taken place?
3. Which strategies seem to be the most effective for groups seeking equal rights?
4. What types of barriers and setbacks did various groups experience? In which time period was most of the progress made? for political rights? for economic rights?
5. Are Americans satisfied with what has been accomplished? Does the progress that has been made indicate that we are firmly committed to equal rights? To live up to the ideals of our Constitution, do we need to continue enlarging the definition of equality?

**8. FINAL SELECTION**

The final selection of significant events can be made through a consensus process or through voting and debate. Students may wish to invite community resource people to comment on the final list or provide additional information that will help them with the decision-making process. Guest speakers could include spokespersons for such groups as the NAACP, NOW, AIM, and the ACLU.

**9. PRODUCTION OF *THE PROMISE OF EQUALITY***

The actual production can be completed as home work or as an in-class assignment. Students can divide responsibilities for such tasks as doing illustrations, writing the text, editing, and composition.

**10. CONNECTING WITH THE PRESENT**

Ask students: Do we need to be concerned about providing more equality for the present and the future? Who are the groups that are now requesting constitutional protections and what are their concerns? How are current issues of inequality similar to or different from those they have studied during this lesson? Provide students with a list of questions that the Supreme Court has been asked to consider about equal rights. Are the questions being raised by the same groups of people who asked for equality in the past or are there new groups who are seeking changes in laws?

1. Has capital punishment been imposed in a manner that is fair and appropriate?
2. Can states discriminate on the basis of economic status? Is education a fundamental right?
3. Do racial quotas limit the constitutional rights of individuals?

Students can search newspapers to find articles about current issues of equality.

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**Historical Turning Points for Equality**

1. Declaration of Independence (1776)
2. Northwest Ordinance (1789)
3. Bill of Rights (1791)
4. Vermont Statehood (1792)
5. Alien and Sedition Acts (1798)
6. Impressment controversies (1790s-1810s)
7. Land Act (1800)
8. American Colonization Society (1817)
9. Missouri Compromise (1820)
10. "Democratizing" Politics in the 1820s
11. *Worcester v. Georgia* (1832)
12. Abolitionist Crusade (1840s)
13. Seneca Falls Convention (1848)
14. Common school movement (1830-1850)
15. Manifest Destiny
16. Fugitive Slave Act (1850)
17. *Uncle Tom's Cabin* (1852)
18. Kansas Nebraska Act (1854)
19. *Dred Scott v. Sanford* (1857)
20. Emancipation Proclamation (1863)
21. Homestead Act (1863)
22. Thirteenth Amendment (1865)
23. Fourteenth Amendment (1868)
24. Fifteenth Amendment (1870)
25. *Slaughter House* cases (1873)
26. *Minor v. Happersett* (1875)
27. "Trail of Broken Treaties"
28. Chinese Exclusion Act (1880)
29. Civil Rights cases (1883)
30. Dawes Severalty Act (1887)
31. Sherman Anti-trust Act (1890)
32. *Plessy v. Ferguson* (1896)
33. *Muller v. Oregon* (1903)
34. Sixteenth Amendment (1913)
35. Seventeenth Amendment (1913)
36. Nineteenth Amendment (1920)
37. *Ozawa v. United States* (1922)
38. National Origins Quota Act (1924)
39. Social Security Act (1935)
40. Frances Perkins becomes Secretary of Labor
41. Fair Employment Practices Committee (1941)
42. G. I. Bill of Rights (1944)
43. Desegregation of U.S. Armed Forces (1946)
44. *Brown v. Topeka Board of Education* (1954)
45. Montgomery Bus Boycott (1955)
46. Civil Rights Act (1957)
47. 1960 Presidential Election
48. Freedom Rides (1960-61)
49. *Gideon v. Wainwright* (1962)
50. Equal Pay Act (1963)
51. *Baker v. Carr, Reynolds v. Sims* (1964)
52. Civil Rights Act (1964)
53. Twenty-fourth Amendment (1964)
54. Voting Rights Act (1965)
55. *Miranda v. Arizona* (1966)
56. *In re Gault* (1967)
57. Equal Rights Amendment (1920-1981)
58. *Tinker v. Des Moines* (1969)
59. Twenty-sixth Amendment (1971)
60. *Bakke* case (1978)

# RESOURCE MATERIALS

## Curriculum Materials

* See Resource Organization listing for full address

*A Bicentennial Guide for Lawyers and Teachers*, Phi Alpha Delta, 1990. A resource for teaching about due process, freedom, fairness and equality, by Louis Fischer and David Schimmel. Copies from PAD, Public Service Center, 7315 Wisconsin Avenue, Suite 325E, Bethesda, MD 20814, $10. Other law-related teaching materials available.

Both Schimmel and Fischer are Professors of Education at the University of Massachusetts at Amherst. Prof. Schimmel, former head of MALRE, can be reached at 265 Hills South, Amherst 01001, (413) 545-1529.

*A Salute to our Constitution and the Bill of Rights: 200 Years of American Freedom*. Two volumes for elementary level, with lessons using the newspaper to teacher about the Constitution. Newspapers in Education, American Newspaper Publishers Associaton Foundation, PO Box 17407 Dulles Airport, Washington, DC 20041.

*About Our Constitution: Lesson Plan Packet*. National Education Association Professional Library, 237 Saw Mill Road, West Haven, CT 06516, (203) 934-2669. Lesson plans for elementary schools created with National Council for the Social Studies.

*Bar-School Partnership Handbooks*. American Bar Association, n.d. *

*Bill of Rights;* and *We The People—Congress and the Constitution*, produced by the Center for Civic Education.* Curricular materials are based on a 6-week course of instruction to foster civil competence.for upper elementary, middle and high school levels.

*Bill of Rights in Action*. Constitutional Rights Foundation, 601 South Kingsley Drive, Los Angeles, CA 90005, (213) 487-5590. Background to constitutional issues and suggested activities.

*Bill of Rights Education Project*. Teaching units on Reconstruction and the First Red Scare; resource packets on Bill of Rights issues for students, from Civil Liberties Union of Massachusetts.*

*Bill of Rights 200: A NIE Guide to the First 10 Amendments*. A 12 page teaching guide to promote understanding the Bill of Rights through newspapers. Newspapers in Education Information Service, PO Drawer #300, Pittsford, NY, 14534, (716) 248-5385.

*Briefing Papers on Bill of Rights Issues;* educational materials on rights of students; and *How to Celebrate the Constitution and Bill of Rights*. From American Civil Liberties Union.*

CRADLE (Center for Research and Development in Law-Related Education) teacher-developed lesson plans and materials on law and the Constitution.*

*Democracy is US: Rights, Risks, and Responsibilities*, teaching modules for all levels on the Constitution and Fourth Amendment. National Conference of Christians and Jews, 71 Fifth Avenue, Suite 1100, New York, NY 10003, (212) 807-8440.

*Drawing on Your Rights*, law-related education activities on the Constitution and Bill of Rights using cartoons. State Bar of Texas, Public Service/ Law Related Education, PO Box 12487, Austin, TX 78711 (512) 463-1388.

*Great Cases of the Supreme Court*. Boston, Houghton Mifflin Company, 1989. Includes mock trial script, glossary.

*Great Trials in American History*. Synopsis and analysis of 15 court cases, Civil War to the present, with Teacher's Manual for Grades 8-12. West Educational Publishing, 201 Castro Street, Mountain View, CA 94041.

*Guide to Resources in Law-Related Education*, prepared by Robert S. Leming, Lucinda J. Peach and Barry Lieber, under the direction of John J. Patrick, Social Studies Development Center, Indiana Program for Law-Related Education, 2805 E. Tenth Street, Suite 120, Bloomington, IN 47408.

*How to Teach the Bill of Rights*, by John J. Patrick and Robert S. Leming, by Anti-Defamation League of B'nai B'rith, in association with ERIC Clearinghouse.*

*Law in the Classroom. Activities and Resources*, by Mary Jane Turner and Lynn Parisi, Social Science Education Consortium, Inc.*

*Lawyer in the Classroom Program*, Curriculum Materials, Massachusetts Bar Association LRE Committee.*

*Living Together Under the Law*. An Elementary Education Law Guide, prepared by the Law, Youth and Citizenship Program of the New York State Bar Association and the New York State Education Department, Arlene F. Gallagher, author and editor, 1988,. NYSBA, One Elk Street, Albany, NY 12207.

*Mini Page on the Bill of Rights* is a tabloid insert carried by 450 US newspapers in 1991, with comic pages and feature articles for elementary age students. After publication, a low-cost Bill of Rights package will be offered to teachers. Packages on the Constitution are already available. Mini Page Constitution Packet, c/o Universal Press Syndicate, PO Box 419150, Kansas City, MO 64112.

*A Salute to our Constitution and the Bill of Rights*. Two volumes for elementary level, with lessons using the newspaper to teach about the Constitution. American Newspaper Association*

*Skills Handbooks* for elementary and secondary level students on the state and federal court systems, including Supreme Court decisions and the Bill of Rights. Also on the Presidency and the Congress. Prepared in cooperation with Scholastic Inc. by the Commission on the Bicentennial of the U.S. Constitution*

"Special Section: First Amendment Rights," Barbara Kate Repa, Editor, *Social Education*, Vol. 54, #6, October 1990.

*Street Law*. A Course in Practical Law for Grades 9-12. Textbook with Teacher's Manual by West Educational Publishing, 201 Castro Street, Mountain View, CA 94041.

*Teaching Today's Constitution. A Contemporary Approach: Lessons and Cases*, 1987. Social Studies School Service, 10200 Jefferson Blvd., Culver City, CA 90232.

*The Bill of Rights: Evolution of Personal Liberties*, 1988. National Achives Document teaching unit, SIRS, Inc., P.O. Box 2348, Boca Raton, FL 33427-2348.

*The Ideas and Ideals of the Bill of Rights Around the World*, a seven-unit curriculum for high school level. Social Studies Education Consortium.*

*Update on Law-Related Education*, teaching series on rights, 1977-1988, American Bar Association*.

*USA Freedom*, Teaching Guide on Constitutional Studies and *USA Freedom Kit*, with student supplements and 10 weeks of *USA Today*. USA Today Classline, 1000 Wilson Blvd., Arlington, VA 22229, (800) USA-0001.

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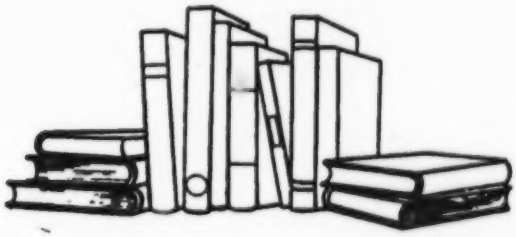


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Phelps, Glenn A. and Robert A. Poirier, *Contemporary Debates on Civil Liberties*, Lexington, MA: D.C.Heath & Co., 1985.

Schechter, Stephen and Richard B. Bernstein, eds., *Forgotten Partners: The States and the Bill of Rights*. Albany, NY: New York State Commission on the Bicentennial of the Constitution, 1990. See especially the bibliographic essay on the Bill of Rights by Gaspar J. Saladino.See also *Contexts of the Bill of Rights* by same authors.

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Tribe, Laurence H., *American Constitutional Law*, 2nd ed. Mineola, NY: Foundation Press, 1988. See other works by same author.

# Audio-Visuals, Games, Performing Arts

*American Viewpoint*, 60-second video commentaries on the First Amendment. American TV and Communication, 300 1st Stamford Placae, Stamford, CT 06902, (203) 328-0620. $50.00

*A More Percect Union: The Constitution at 200.* a 22-week series of 2-min. vignetters on the Constitution, Bill of Rights and Supreme Court decisions. Related 1/2 hr. programs available. CNN, 100 International Blvd., Atlanta, GA 30348 (404) 827-1700.

*A Question of Balance: Fair Trial/Free Press*, video produced by the American Bar Association, Communication Department and American Newspaper Publishers Assn. Available from Visual Associates, Inc., 665 Fifth Avenue, New York, NY 10022..

*Bill of Rights Bicentennial:* Posters and Resource Kit from the American Library Association.*

*Bill of Rights Radio Education Project*, Thirteen half-hour radio documentaries on contemporary Constitutional issues on audio cassette, produced by the American Civil Liberties Union and Pacifica Foundation, c/o Pacifica Radio Archives, 5316 Venice Blvd., Los Angeles, CA 90019, (213) 931-1625.

*Blessings of Liberty*, a set of posters with display kiosks on rights, with curriculum guide. Pennsylvania Humanities Council*

*Blessings of Liberty*, video discussing US constitutional history, 3/4", 16mm VKHS. Eastern National Parks and Monuments Assn., PO Box 47, Yorktown, VA 23690, (800) 821-2903.

*Censorship in Schools and Libraries*, 24-piece exhibit with accompanying text. Long Island Coalition Against Censorship, PO Box 296, Port Washington, NY 11050, (516) 944-9799, small fee.

Computer Game of questions and answers on the Constitution from Free Spirit Software, Inc., 538 S. Edgewood, LaGrange, IL 60525 (708) 482-7318.

*The Constitution*, a question and answer game using cards, for 5th, 6th grades. The Game School Corporation, Box 412, Neenah, WI 54956 (414) 727-1400.

*Crusaders and Criminals*, an hour-long documentary produced by Ken Simon for public television, dramatizes seven Supreme Court cases involving CT, the Constitution and the Bill of Rights. For information, contact, CT Public Television, (202) 249-7769.

*Constitutional Law in Action.* Four filmstrips using actual rights cases. Class involvement possible. Social Studies School Service.*

*Equal Justice Under the Law.* Six half-hour dramas that cover the most important decisions of Chief Justice John Marshall. Produced by WQED Pittsburgh and the Judicial Conference of the US. Cassettes available from the Commission on the Bicentennial of the US Constitution.*

*Forgotten Fredoms*,Videotape and discussion guide, for students and adults.American Bar Association, Young Lawyers Division.*

*Is the Constitution Democratic?*, *The Constitution and Rights*, and *Virtue and the Constitution.* Three 30-minute programs. Available to TV stations across the country. VHS, 3/4", 1" master. Contact Defense Forum Foundation, Attn. Chadwick R. Gore, 7015 Old Keene Mill Rd., Suite 206, Springfield, VA 22150 (202) 866-0344.

*Justice*, Multimedia Kit, Level III and IV. Law in a Free Society, Calabasas, CA 91302.

*Our Living Bill of Rights Series*, six videos on rights cases including "The Shepard Case,""Freedom to Speak," *NY v. Feiner*, "The Gideon Case," "CA Fair Housing KCase,' and "Equality and the Law." Britannica Films and Video, 425 North Michigan Avenue, Chicago, IL 60611.

*Our Living Constitution*, two 17-minute sound filmstrips for grades 5-12, "The Constitution and the Bill of Rights" and "Amendments 11 through 26," National Geographic Society, Educational Services, Washington, DC 20036 (202) 368-2728.

PBS Elementary/Seconday Service, 1320 Braddock Place, Alexandria, VA 22314, (703) 739-5000. Request audio/visuals listing on Constitution and Bill of Rights.

*Presidents Posters*, through commemorative postage stamps (with Scholastic, Inc.), *Constitution Week* Poster, with teacher's guide, *Scene from the Signing of the Constitution*, by Howard Chandler Christy. From Commission on the Bicentennial of the U.S. Constitution, see Resource Organizations

*Rules, Laws and the U.S. Constitution*, a half-hour program for deaf children, 8-12 years old. Produced for public TV. by D.E.A.F. Media Inc., 2600 Tenth Street, Berkeley, CA 94710 (415) 841-0163.

*Supreme Court Decisions that Changed the Nation*: A Review of Many Decisions. Six 15-minute videos available as filmstrip, VHS, Beta. Guidance Associates, Inc., Communications Park, Box 3000, Mt. Kisco, NY 10549, (800) 431-12442.

Teaching posters on the Consitution and the Bill of Rights in process through the National Council for the Social Studies. See Resource Organizations

*The Constitution and the Courts;* and *Mr. Madison's Constitution and the Twenty-first Century*. Two educational films produced by the League of Women Voters Education Fund and Project '87, 1527 New Hampshire Ave., NW, Washington, DC 20036. (202) 483-2512.

*The First Freedom*, a documentary on religious freedom, using the Virginia statute that served as the basis for the First Amendment. Karen Thomas, Film America, 1832 Biltmore Street NW, Washington DC 20009, (202) 332-5817.

*The U.S. Constitution*. Audio cassette narrated by Walter Cronkite, eight tapes with reference guide. Knowledge Products, 2005 Elm Hill Pike, PO Box 100340, Nashville, TN 37210 (615) 889-6223.

*Voices of Freedom*. Three-minute commentaries by known personalities on audio tape, about the Constitution. Produced by People for the American Way, Field Department, 1424 16th Street, NW, Washington, DC 20036, (202) 467-4999.

# RESOURCE ORGANIZATIONS

American Bar Association
541 North Fairbanks Ct.
Chicago, IL 60611-3314
(312) 988-5735
Contact: Paula Nessel, Special Committee on Youth Education for Citizenship
Teaching materials and information on the Constitution and the Bill of Rights, *Update on Law Related Education*

America's Historic Forests
8555 Plummer Road
Jacksonville, FL 32219
(800) 677-0727
Free Bicentennial Information Kit on tree planting and conservation projects, *Roots of Liberty* and *Bicentennial Grove*.

American Historical Association
400 A Street, SE
Washington, DC 20003
(202)544-2422
Collaborate educational materials and grants with Bicentennial Commission, others

American Legion
National Americanism
Children & Youth Division
P.O. Box 1055
Indianapolis, IN 46206
Coloring book for elementary scool students on the Bill of Rights. Free sample provided. Prices and orders for quantity through P.O. Box 1050

American Library Association
50 East Huron Street
Chicago, IL 60611
(312) 944-6780
Bicentennial programs,posters, materials

Anti-Defamation League of B'nai Brith
423 United Nations Plaza
New York, NY 10017
(212 490-2525
Curriculum materials, programs

Bill of Rights Education Collaborative
1527 New Hampshire Ave, NW
Washington, DC 20036
Grant program for teachers in cooperation with American Historical Association, American Political Science Association and National Council for the Social Studies

Bill of Rights Education Project
Massachusetts Civil Liberties Foundation
19 Temple Place
Boston, MA 02111
(617) 482-3170
Contact: Nancy Murray
Information, workshops for teachers and students; Publication *Bill of Rights Network* is free to teachers three times a year

Boston Bar Association
16 Beacon Street
Boston, MA 02108
(617) 742-0615
Contact: Barbara Powers
Bill of Rights Walkway located outside the old Suffolk County Courthouse in Pemberton Square Boston; LRE lawyer assistance to schools

Center for Civic Education
5146 Douglas Fir Road
Calabasas, CA 91302
(818) 340-9320.
Curriculum materials and contests for schools

Center for Research and Development in Law-Related Education (CRADLE)
Wake Forest University School of Law
P.O. Box 7206
Reynolds Station
Winston-Salem, NC 27109
(919) 759-6061
Registry of teacher-tested lessons on law and the Constitution; catalog of educational materials

Close Up Foundation
123335 Jefferson Davis Highway
Suite 1500
Arlington, VA 22202
(800) 356-5136
Educational materials on the Constitution and the Bill of Rights

Commission on the Bicentennial of the U.S Constitution
808 Seventeenth Street, NW
Washington, DC 20006
(202)653-9800
Bicentennial Educational Grant and School Recognition Programs; posters; exhibit; materials for teachers, library, religious, community. Send for resource listings

Commonwealth Museum at Columbia Point
220 Morrissey Boulevard
Boston, MA 02125
(617) 727-9268
Contact: Bobby Robinson
Exhibit, educational materials, video on the Bill of Rights, ratification posters and booklet

Constitution Education Foundation
1731 Kingsley Drive
Los Angeles, CA 90005
(213) 487-5590
Curriculum resources

Constitutional Rights Foundation-Chicago
407 S. Dearborn, Suite 1700
Chicago, IL 60605
(312) 663-9057
Constitutional Rights Foundation-Los Angeles
601 S. Kingsley Drive
Los Angeles, CA 90005
(213) 487-5590
Both offices offer educational materials, newsletter on the Bill of Rights.

ERIC/ChESS
User Services, Indiana University
2805 E. Tenth Street
Bloomington, IN 47408
(812) 855-3838
Develops curricula and disseminates information through database on social studies/social science materials, including bill of rights.

Learning Magazine
1111 Bethlehem Pike
Springhouse, PA 19477
(215) 646-8700
"Celebrating the Bill of Rights and Beyond," two-sided poster with teaching guide

LRE in Supreme Judicial Court
Public Information Office
Old Courthouse, Rm. 218
Boston, MA 02108
(617) 725-8524
Contact: Nancy Waggner
Develops and maintains program to introduce students to court system; LRE teacher training; pilot program, Judicial Youth Corps, linking students to Boston courts in work/education , with training component for teachers of participating schools

Massachusetts Assn. for Law-Related Education
c/o Ronny Sydney, President MALRE 1991
Shultz & Grossman
50 Milk Street
Boston, MA 02109
(617) 426-6200
Annual fall conference; this year's theme on the Bill of Rights

Massachusetts Bar Association
20 West Street
Boston, MA 02111
(617) 542-3602
Contact: Nancy Kaufer
Lawyer-Teacher Partnership program(1-12), Mock Trial Program(6-12), essay contest (high school), curriculum development and semi-annual newsletter with curriculum suggestions

Massachusetts Bicentennial Commission
c/o Joseph Milano, Commissioner
Union Oyster House
41 Union Street
Boston, MA 02108
Office in process of being reactivated

Merrimack Education Center
101 Mill Road
Chelmsford, MA 01824
(508) 256-3925
Contact: Dr. Jean Sanders
LRE materials, teacher workshops

National Archives and Records Administration
7th and Pennsylvania Avenues
Washington, DC 20408
(202) 501-5215
Curriculum materials, documents packets, poster series

National Center for History Teachers
UCLA, Moore Hall 231
401 Hilgard Avenue
Los Angeles, CA 90024
Contact: Pamela Hamilton
Lesson plans on key rights c ases

National Council for the Social Studies
3501 Newark St. NW
Washington, DC 20016
(202) 966-7840
Bill of Rights grants for inservice; curriculum materials

National History Day
Case Western Reserve University
11201 Euclid Avenue
Cleveland, Ohio 44106
The theme "Rights in History" nationwide during 1991, involving essays, exhibits, drama and media presentations. Handbook and an information packet for teachers available

Newspapers in Education
American Newspaper Publishers Association Foundation
P.O. Box 17407
Dulles Airport
Washington, DC 20041
(703) 648-1051.
Lesson plans, programs

Pennsylvania Humanities Council
320 Walnut Street, Suite 305
Philadelphia, PA 191906
(215) 925-1005
Poster exhibit *To Preserve These Rights*, designed for schools, libraries and other public facilities; supplementary User's Guide with curriculum materials

Phi Alpha Delta
7315 Wisconsin Avenue
Bethesda, MD 20814
(301) 986-9406
Contact: Robert Redding
Publications and programs through Public Service Center

Social Studies Education Consortium
3300 Mitchell Lane
Boulder, CO 80301-2272
(303) 492-81p54
Lessons on Constitution and Bill of Rights; collaborative programs

Stoneham Bicentennial Commission
Stoneham Town Hall
Stoneham, MA 02180
Contact: Paul E. McDonald
Statewide networking, conference organizationand educational materials

Supreme Court Historical Society
111 Second Street, NE
Washington, DC 20002
(202) 479-0400
Posters and prints on history of Judiciary Branch and Supreme Court; curriculum materials

# Twenty-Six Amendments to the Constitution

## *The Bill of Rights and Beyond*

**ARTICLES IN ADDITION TO, AND AMENDMENT OF, THE CONSTITUTION OF THE UNITED STATES OF AMERICA, PROPOSED BY CONGRESS, AND RATIFIED BY THE LEGISLATURES OF THE SEVERAL STATES PURSUANT TO THE FIFTH ARTICLE OF THE ORIGINAL CONSTITUTION.**

*Amendment I* [1791]

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

*Amendment II* [1791]

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

*Amendment III* [1791]

No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

*Amendment IV* [1791]

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

*Amendment V* [1791]

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

*Amendment VI* [1791]

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

*Amendment VII* [1791]

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried to jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

*Amendment VIII* [1791]

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

*Amendment IX* [1791]

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

*Amendment X* [1791]

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

*Amendment XI* [1798]

The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.

*Amendment XII* [1804]

The Electors shall meet in their respective states and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate;—The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted;—The person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of Electors appointed; and if no person have such majority, then from the persons hav-

ing the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President.—The person having the greatest number of votes as Vice-President, shall be the Vice-President, if such number be a majority of the whole number of Electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

*Amendment XIII* [1865]

Section 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Section 2. Congress shall have power to enforce this article by appropriate legislation.

*Amendment XIV* [1868]

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

Section 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States or under any State, who having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

Section 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void

Section 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

*Amendment XV* [1870]

Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

Section 2. The Congress shall have power to enforce this article by appropriate legislation.

*Amendment XVI* [1913]

The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.

*Amendment XVII* [1913]

[1] The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures.

[2] When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: *Provided*, That the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.

[3] This amendment shall not be so construed as to affect the election or term of any Senator chosen before it becomes valid as part of the Constitution.

*Amendment XVIII* [1919]

Section 1. After one year from the ratification of this article the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited.

Section 2. The Congress and the several States shall have concurrent power to enforce this article by appropriate legislation.

Section 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.

*Amendment XIX* [1920]

[1] The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.

[2] Congress shall have power to enforce this article by appropriate legislation.

*Amendment XX* [1933]

Section 1. The terms of the President and Vice President shall end at noon on the 20th day of January, and the terms of Senators and Representatives at noon on the 3d day of January, of the years in which such terms would have ended if this article had not been ratified; and the terms of their successors shall then begin.

Section 2. The Congress shall assemble at least once in every year, and such meeting shall begin at noon on the 3d day of January, unless they shall by law appoint a different day.

Section 3. If, at the time fixed for the beginning of the term of the President, the President elect shall have died, the Vice President elect shall become President. If the President shall not have been chosen before the time fixed for the beginning of his term, or if the President elect shall have failed to qualify, then the Vice President elect shall act as President until a President shall have qualified; and the Congress may by law provide for the case wherein neither a President elect nor a Vice President elect shall have qualified, declaring who shall then act as President, or in the manner in which one who is to act shall be selected, and such person shall act accordingly until a President or Vice President shall have qualified.

Section 4. The Congress may by law provide for the case of the death of any of the persons from whom the House of Representatives may choose a President whenever the right of choice shall have devolved upon them, and for the case of the death of any of the persons from whom the Senate may choose a Vice President whenever the right of choice shall have devolved upon them.

Section 5. Sections 1 and 2 shall take effect on the 15th day of October following the ratification of this article.

Section 6. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission.

*Amendment XXI* [1933]

Section 1. The eighteenth article of amendment to the Constitution of the United States is hereby repealed.

Section 2. The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

Section 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by conventions in the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.

*Amendment XXII* [1951]

Section 1. No person shall be elected to the office of the President more than twice, and no person who has held the office of President, or acted as President, for more than two years of a term to which some other

person was elected President shall be elected to the office of President more than once. But this Article shall not apply to any person holding the office of President when this Article was proposed by the Congress, and shall not prevent any person who may be holding the office of President, or acting as President, during the term within which this Article becomes operative from holding the office of President or acting as President during the remainder of such term.

Section 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.

*Amendment XXIII* [1961]

Section 1. The District constituting the seat of Government of the United States shall appoint in such manner as the Congress may direct:

A number of electors of President and Vice President equal to the whole number of Senators and Representatives in Congress to which the District would be entitled if it were a State, but in no event more than the least populous state; they shall be in addition to those appointed by the states, but they shall be considered, for the purposes of election of President and Vice President, to be electors appointed by a state; and they shall meet in the District and perform such duties as provided by the twelfth article of amendment.

Section 2. The Congress shall have power to enforce this article by appropriate legislation.

*Amendment XXIV* [1964]

Section 1. The right of citizens of the United States to vote in any primary or other election for President or Vice President, for electors for President or Vice President, or for Senator or Representative in Congress, shall not be denied or abridged by the United States, or any State by reason of failure to pay any poll tax or other tax.

Section 2. The Congress shall have power to enforce this article by appropriate legislation.

*Amendment XXV* [1967]

Section 1. In case of the removal of the President from office or of his death or resignation, the Vice President shall become President.

Section 2. Whenever there is a vacancy in the office of the Vice President, the President shall nominate a Vice President who shall take office upon confirmation by a majority vote of both Houses of Congress.

Section 3. Whenever the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that he is unable to discharge the powers and duties of his office, and until he transmits to them a written declaration to the contrary, such powers and duties shall be discharged by the Vice President as Acting President.

Section 4. Whenever the Vice President and a majority of either the principal officers of the executive departments or of such other body as Congress may by law provide, transmit to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office, the Vice President shall immediately assume the powers and duties of the office as Acting President.

Thereafter, when the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that no inability exists, he shall resume the powers and duties of his office unless the Vice President and a majority of either the principal officers of the executive department or of such other body as Congress may by law provide, transmit within four days to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration and the President is unable to discharge the powers and duties of his office. Thereupon Congress shall decide the issue, assembling within forty-eight hours for that purpose if not in session. If the Congress, within twenty-one days after receipt of the latter written declaration, or, if Congress is not in session, within twenty-one days after Congress is required to assemble, determines by two-thirds vote of both Houses that the President is unable to discharge the power and duties of his office, the Vice President shall continue to discharge the same as Acting President; otherwise, the President shall resume the powers and duties of his office.

*Amendment XXVI* [1971]

Section 1. The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age.

Section 2. The Congress shall have power to enforce this article by appropriate legislation.

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